Pitt Press Series

CICERO DE OFFICIIS

BOOK III.

London: C. J. CLAY AND SONS,
CAMBRIDGE UNIVERSITY PRESS WAREHOUSE,
AVE MARIA LANE.
Glasgow: 50, WELLINGTON STREET.

Leipzig: F. A. BROCKHAUS.
New York: THE MACMILLAN COMPANY.
Bombay and Calcutta: MACMILLAN AND CO., LTD.

CICERO DE OFFICIIS

BOOK III

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CAMBRIDGE:
AT THE UNIVERSITY PRESS.
1902

First Edition 1888. *Reprinted* 1897.
New Edition 1898. *Reprinted* 1902

PREFACE

THE Syndics of the University Press have done me the honour to request that I would see the New Edition of Holden's *de officiis* through the Press with such corrections as seemed necessary. I have regarded it as a pious duty to my old Master and Teacher to do my best that his reputation should not suffer from any default of mine. The complete edition of the Three Books has been so long before the public, and has received so many additions from the indefatigable industry and wide reading of Dr Holden himself, as well as from the suggestions of other Scholars, that my task has been little more than that of combining the supplementary notes with those forming the main body of the work and correcting a few obvious errors either of oversight or of the press, so that when the new (8th) edition appears, as it shortly will, Scholars will find themselves in possession of substantially the same book as that to which they have been accustomed, only I trust somewhat improved in arrangement. The case of the separate edition of the Third Book was somewhat different. It has hitherto been simply so many pages detached from the larger book, with the full Introduction,—much of which only applied to the larger work,—without a separate index, and with a system of

references in the notes which presupposed the entire work to be in the hands of the reader. Moreover, though the object of so separating the book was to suit the convenience of a different class of Students to that which would probably require the whole book, the notes were the same, neither retrenched nor made plainer. In this case therefore I have had something more to do. I have not found it easy to steel myself often to the making of large excisions, though I have done so in certain places, but I have occasionally simplified the notes; have either cut out mere references, or, when they seemed necessary, have given the passages at length; have removed a considerable number of errors; and have now and then put in a few words or illustrations which I thought would make the meaning clearer. Finally I have made a separate index to the notes and shortened the Introduction (which Dr Holden acknowledged to have taken to a great extent from C. F. W. Müller) so as to make it bear rather more exclusively on the Third Book. I have also corrected some of the spelling of the Text in conformity with recent authorities.

E. S. SHUCKBURGH.

CAMBRIDGE.
1898.

INTRODUCTION

§ 1 *On the date of the work and the circumstances in which it was composed*

LIKE the principal of the strictly philosophical works of Cicero[1], the *de officiis* belongs to the close of his life. It was written in the interval between the death of his beloved and only daughter Tullia in Feb. B.C. 45 and the end of B.C. 44.

The probable time of its composition is evident from several allusions in the work itself. The Dictator Julius Caesar has been murdered (I § 26, II § 23, III § 19). The *Laelius de amicitia* and the two lost books *de gloria*—neither of which are to be found amongst his philosophical works enumerated in the Introduction to the Second Book of the *de divinatione* which we know was published after Caesar's death—have already appeared. Cicero is compelled by his dread of Antonius to keep away from Rome and remain in the country, with the avowed object of quitting Italy altogether (§ 1). But towards the end of the Third Book he has abandoned this purpose and is *e medio cursu clara voce a patria revocatus* (§ 121). This, as Cicero himself explains, alludes to his return journey to Rome on Aug. 31st B.C. 44, after he had actually started for Greece but had been driven

[1] Those on speculative Philosophy consisting of the *Hortensius*, *de consolatione*, *de finibus* libri V, *Academicorum* libri IV, *Tusculanarum disputationum* libri V, *Timaeus;* those on Theology:—*de natura deorum* libri III, *de divinatione* libri II, *de fato;* those on the Philosophy of Morals: *Cato maior de senectute*, *Laelius de amicitia*, *de gloria* libri II, *de virtutibus;* the four first appeared in B.C. 45, the remainder in B.C. 44. See n. to § 4 l. 20.

back by stress of weather. This allusion, however, does not furnish us with the exact date of the composition of the present work, because Cicero is here speaking only of his disappointment in not having paid his intended visit to his son at Athens. We do not learn from it when the book was actually finished. Evidence of this must be sought elsewhere.

There were two occasions in the year B.C. 44 when Cicero *urbe relicta rura peragravit*—one from the beginning of April to the end of August, the other from October to the 9th of December. The question arises, which of the two is meant in § 1. His correspondence throws light upon this point. In a letter to Atticus from his villa near Puteoli dated Oct. 25th (Att. XV 13, 6) he tells his friend that he is busy with the work: *Nos hic* φιλοσοφοῦμεν (*quid enim aliud?*)—*et* τὰ περὶ τοῦ καθήκοντος *magnifice explicamus* προσφωνοῦμεν*que Ciceroni, qua de re enim potius pater filio? deinde alia: quid quaeris? exstabit opera peregrinationis huius.* On November the 5th he writes again to Atticus[2] that he had then completed the two first books and was engaged upon the third. To judge from the marvellous rapidity with which Cicero composed his philosophical writings, it is highly probable that the Third Book was completed before his second return to Rome and appearance in open opposition to Antonius.

This supposition will justify and account for the bitterness

[2] Att. XVI 11, 4 *τὰ περὶ τοῦ καθήκοντος, quatenus Panaetius, absolvi duobus: illius tres sunt, sed, cum initio divisisset ita, tria genera exquirendi officii esse, unum, cum deliberemus honestum an turpe sit, alterum, utile an inutile, tertium, cum haec inter se pugnare videantur, quomodo iudicandum sit, qualis causa Reguli, redire honestum, manere utile, de duobus primis praeclare disseruit, de tertio pollicetur se deinceps, sed nihil scripsit. Eum locum Posidonius persecutus est, ego autem et eius librum arcessivi et ad Athenodorum Calvum scripsi, ut ad me τὰ κεφάλαια mitteret—quae expecto; quem velim cohortere et roges ut quam primum—: in eo est περὶ τοῦ κατὰ περίστασιν καθήκοντος.* Cicero appears to have received these τὰ κεφάλαια before the middle of the month; for he writes (14, 3) *Athenodorum nihil est quod hortere: misit enim satis bellum ὑπόμνημα.*

of spirit to which the writer gives vent without reserve on every opportunity—and opportunities were not wanting in a work so thoroughly practical as this—and his lamentation over the extinction of freedom, and his own particular grievances. In his other works, composed before and just after the murder of Caesar, he expresses himself with greater reserve and constraint, as when he says against his own conviction, *de natur. deor.* I iv 7 *cum is esset rei publicae status ut eam unius consilio atque cura gubernari necesse esset*, and in a letter to Atticus on the 4th of May (XIV 17, 6) *minore periculo existimo contra illas nefarias partes vivo tyranno dici potuisse quam mortuo.*

It may have been accident but it was more probably immediate political circumstances that determined Cicero's choice of a subject, and his method of treating it. The present work is his first attempt at the hortatory side of moral philosophy, and the application of its principles to the regulation of conduct and the intercourse of social and political life. Under the dictatorship of Caesar, when he lived in retirement and became resigned to a life of political inaction, Cicero had confined himself to the speculative side of Ethics and Metaphysics. But in a grave political crisis, such as followed the death of Caesar, when he was looked up to as the mainstay of his party against the brutal and undisguised despotism of Antonius, it was natural that his thoughts should be diverted from abstract discussions and questions 'on the chief good' and 'the being of the gods' to those of practical interest. The *de officiis* is his last farewell to his family and country.

§ 2 *Dedication of the work to Cicero's son*

Cicero, as we have seen, resolved to dedicate the work to his son Marcus. Marcus Tullius Cicero, only son of the orator and his wife Terentia, was born in B.C. 65[3]. He had naturally the tastes and instincts of a soldier only, but his father wished to make a philosopher and orator of him. On his return from Cilicia, whither he had accompanied his father

[3] ad Att. I 2.

in B.C. 51, he crossed to Greece and, being then in his sixteenth year, joined the army of Pompeius, from whom he received the command of a squadron of cavalry, and won the good opinion of his general and the whole army by his skill in military exercises and manly endurance of labour[4]. In B.C. 45 he had a great desire to proceed to Spain and take part in the service of Caesar against his former friends. His father, however, refused to gratify his desire and sent him instead to Athens[5] to prosecute his studies there along with several other young Romans of distinguished family[6]. At Athens, although provided with a most liberal allowance[7], he fell into extravagant habits; but afterwards he reformed his mode of life and became a diligent student of philosophy under Cratippus of Mitylênê, who was at that time head of the Peripatetic School[8]. After the death of Caesar, he was raised to the rank of military tribune by Brutus, and did much good service in the course of the Macedonian campaign[9]. The attainder pronounced upon the father was extended to the son also, but the Triumvirs were not able to injure him. When his party was broken up by the rout at Philippi, he joined Sextus Pompeius in Sicily and taking advantage of the amnesty in favour of exiles—which was part of the convention between that chief and the triumvirate—returned to Rome. Here he lived in retirement, until Octavianus paid the debt he owed his father by assuming the son as his colleague in the Consulship in B.C. 30 after his final rupture with Antonius.

[4] de off. II § 45 *quo in bello, cum te Pompeius alae praefecisset, magnam laudem et a summo viro et ab exercitu consequebare equitando, iaculando, omni militari labore tolerando.* [5] ep. ad Att. XII 7.

[6] G. Boissier *Cicéron et ses amis* p. 137.

[7] Nearly 100,000 sesterces = £870, ep. ad Att. XII 27, 32.

[8] ep. ad Att. XIV 16, XV 4, 6, 17, 20, XVI 1, ad fam. XII 16.

[9] Brut. ep. ad Cic. II 3, 5 *Cicero, filius tuus, sic mihi se probat industria, patientia, labore, animi magnitudine, omni denique officio, ut prorsus numquam dimittere videatur cogitationem, cuius sit filius; quare, quoniam efficere non possum, ut pluris facias eum, qui tibi est carissimus, illud tribue iudicio meo, ut tibi persuadeas non fore illi abutendum gloria tua, ut adipiscatur honores paternos.*

It was during his Consulship that the decree was passed for destroying all the statues and monuments of Marcus Antonius; so that, as Plutarch remarks, the completion of the triumvir's punishment was reserved by divine justice for the house of Cicero[10]. On the expiration of his term of office, he was made Proconsul of Asia.

Besides the negative indication afforded by the absence of any recognition of his son's progress in his studies and fulfilment of his father's hopes—there are sundry positive though slight indications in the present work[11], which lead us to suspect that Cicero had reason for believing that he could not choose a fitter subject of instruction for his son than that of 'propriety of conduct' or 'moral duties.' This suspicion is confirmed by isolated hints in his letters to his friend Atticus, that the son's manner of life was a subject of anxiety to him. At one time he writes: 'You have written to my son just the sort of letter I should have wished him to receive: its tone could not be more uncompromising nor at the same time more strictly moderate'[12]. And again: 'It is of great importance to my son, or rather to myself,—or rather by heaven to us both, that I should visit him while engaged in his studies. For as to Leonidas's letter, which you forwarded to me, what is there in it to be much pleased at? I shall never think commendation satisfactorily expressed in such a phrase "as he is going on at present." That is not the language of confidence but of apprehension'[13]. In the middle of June in the same year B.C. 44 he writes: 'At last a letter-carrier from my son! And upon my word his letter is without his usual oratorical flourishes, which of itself shows some improvement. The others also write in high terms. Leonidas indeed still sticks to his favourite "as yet," but Herodes is very complimentary. *Que voulez-vous?* In this matter I am glad

[10] vit. Cic. c. 49 *ἐφ' οὗ τάς τ' εἰκόνας ἀνεῖλεν ἡ βουλὴ τοῦ Ἀντωνίου καὶ τὰς ἄλλας ἀπάσας ἠκύρωσε τιμὰς καὶ προσεψηφίσατο μηδενὶ τῶν Ἀντωνίων ὄνομα Μάρκον εἶναι. Οὕτω τὸ δαιμόνιον εἰς τὸν Κικέρωνος οἶκον ἐπανήνεγκε τὸ τέλος τῆς Ἀντωνίου κολάσεως.*

[11] II xiii 44, III ii 5, xxxiii 121.

[12] Att. XIII 1, 1. [13] XIV 16, 3.

to be deceived and like to be credulous'[14]. We are also told by Plutarch[15] that Cicero felt himself compelled 'to prohibit Gorgias the Rhetorician from associating with him, charging him with inciting the young man to sensual pleasures and drink.' Whereupon he writes to Tiro, his father's secretary (perhaps with some hypocrisy)[16]: 'As to what you say in your letter about Gorgias, though I found him in fact useful to me in my daily declamations, I have preferred to obey my father's injunctions before every other consideration. For he had written ordering me in so many words to dismiss him on the spot. I did not wish to make any difficulty about it for fear that any expression of strong feeling on my part should rouse some suspicion in him. Besides it occurred to me that it would be presumptuous to express an opinion on a formal judgment of my father's.' That there was reason for anxiety is further shown by a remark of the elder Seneca[17], who in relating an anecdote of his having as Proconsul in Asia given orders to scourge the Rhetorician Cestius, one of his own guests, describes him as 'a man who had none of his father's intellectual gifts except his wit,' and says that 'nature had deprived him of a good memory and addiction to wine was then stealing away what little he had left.'

§ 3 *The general plan and purpose of the work*

Cicero, like a true Roman, had little taste for abstract speculations, except so far as they bore upon work-day life and served some useful end; it was the practical side only of philosophy that enlisted his sympathy. He had originally looked upon it as a constituent element of general culture, especially indispensable to the youthful aspirant to the honours of the forum and the senate[18]. His earlier works, the *de re publica* (B.C. 54) and the *de legibus* (B.C. 52), are to be classed among his political rather than his philosophical writings. He occasionally indulges

14 xv 16 a.

15 vit. Cic. c. 24, 6. 16 ep. ad fam. XVI 21, 6. 17 Suasor. VII 13.

18 See the pertinent remarks of Mayor in his very useful *Sketch of ancient Philosophy* p. 216.

in a description of the sublime enjoyment arising from the pursuit of liberal knowledge[19], but he is constantly under the apprehension lest in his exclusive devotion to philosophy he should be considered by some *viri boni* to be serving merely personal and not social ends. Hence his frequent and elaborate apologies for this method of spending the leisure which exclusion from the political arena had forced upon him[20]. To drown his care in the pursuit of pleasure and abandon himself to careless indolence, like so many eminent men of his party, would have been altogether repugnant to his taste and unworthy of a man of his cultivation. He turned then to Philosophy —which had been a favourite study of his youth and to which, in the midst of active life, he had given up all the time that he could spare from professional and political duties[21]—as a grateful relief from distracting recollections and a consolation in a period of deepest gloom[22]. But he did not turn to it merely on personal grounds or for his own amusement and satisfaction:

[19] de fin. I i 3 *nec modus est ullus investigandi veri, nisi inveneris, et quaerendi defatigatio turpis est, cum id, quod quaeritur, sit pulcherrimum. Etenim si delectamur, cum scribimus, quis est tam invidus, qui ab eo nos abducat? sin laboramus, quis est qui alienae modum statuat industriae,* 'not only is discovery the sole limit to the exploration of truth, but when the object of search is the noblest possible, weariness in the search becomes disgraceful. Further, if writing is a pleasure to me, who is so grudging as to draw me away from it? or if it is a task, who is there that should set a bound to another man's activity?' Cf. Acad. II § 7.

[20] See de off. I i 2—ii 6, Acad. II ii 6. At Rome such studies were looked upon as only fit for the amusement of Greeks and wealthy dilettanti, quite unworthy of a Roman statesman.

[21] Cf. de div. II ii 7 *tribuenda est opera rei publicae vel omnis potius in ea cogitatio et cura ponenda; tantum huic studio relinquendum, quantum vacabit a publico officio et munere.* The same thought is constantly cropping up in the *de officiis*. See II § 4 f.

[22] de divin. II ii 6 *ac mihi quidem explicandae philosophiae causam adtulit casus gravis civitatis, cum in armis civilibus nec tueri meo more rem publicam nec nihil agere poteram nec, quid potius, quod quidem me dignum esset, agerem, reperiebam.* Cf. de off. III i 1—4.

he was still influenced by motives of patriotism, and an earnest desire for the elevation of his fellow-citizens. The interpretation of writers on Greek philosophy, and the general diffusion and reduction to popular language of their great thoughts so as to give them general currency, was the one service he could now render his country, when there was no other sphere open to his ambition[23].

In a purely philosophical work, we should be surprised to find the writer taking such a one-sided point of view, and not attempting to disguise the fact that he is really writing only for the Roman aristocracy of the period. But we must not forget that we have here a work written with a special limitation and purpose. It is not designed for the ideally perfect philosopher, nor does it purport to be a compendium even of the duties by which one may grow into the semblance of true wisdom. It is specially addressed to his son—to whom he makes frequent appeals to maintain the honour of his family and for whom he prescribes the self-training, and the habits of living by which a youth, intended for public life and to be a candidate for state offices, may both deserve and attain distinction and eminence with the confidence and esteem of his fellow-citizens. We must remember also, that the circle of readers, upon whom Cicero has to reckon, consisted only of his own equals in rank. He has to take into consideration their habits and feelings, their prejudices, foibles and faults. It is true that he is so far dependent upon his original Greek sources, that the scheme and plan of the whole work is borrowed from them and general questions raised in them are not excluded[24]. But when he is writing independently, not only are his examples and illustrations borrowed from Roman History and from the

[23] de nat. deor. I 7 *ipsius rei publicae causa philosophiam nostris hominibus explicandam putavi, magni existimans interesse ad decus et ad laudem civitatis res tam graves tamque praeclaras Latinis etiam litteris contineri;* de divin. II 1; de off. I i 1 *magnum attulimus adiumentum hominibus nostris, ut non modo Graecarum litterarum rudes sed etiam docti aliquantum se arbitrentur adeptos et ad dicendum et ad iudicandum.*

[24] See § 50 ff, § 89 ff.

private life of prominent Romans, but he shows a marked predilection for such questions as concern the private and, in a still greater degree, the public life of a member of the Roman aristocracy[25], just as the dialogue *Laelius de amicitia*—which is perhaps his most original and beautiful work—presents us with pictures of the ideal friendship existing between distinguished Roman characters; and if mention is made of similar relations between others, it is only incidentally and exceptionally. Such then were the circumstances which gave occasion to the present treatise; such the purpose which the writer set before himself. It remains to be seen how he has executed his task.

§ 4 *Ciceronian Philosophy*

The principal, the only recognised schools indeed of Philosophy, in Cicero's time were the Academy, the Lyceum (*Peripatetics*), the Porch (*Stoics*) and the Garden (*Epicureans*). Before he reached his twentieth year Cicero had availed himself of the opportunity of intimate personal intercourse with three most eminent living professors, representatives of the three most important of these schools. In his 19th year, B.C. 88, he studied under Phaedrus the Epicurean[26] and subsequently under Philo[27] of Larissa, then head of the Academic School at Rome. In his 28th year, B.C. 79, he attended the lectures of Phaedrus[28] for the second time[29], and those of Zenon of Sidon, head of the Epicurean School at Athens. Poseidonius the Stoic he sat under at Rhodes[30] in the following year. Antiochus of Askalon[31], 'the representative of a Stoicised Academic School'[32], was another of his teachers. Diodotus

[25] as in II xiii 44 f, xv 52 ff.
[26] ep. ad fam. XIII 1, 2, de nat. deor. I § 93.
[27] Brut. § 306, de nat. deor. I 6.
[28] de fin. I § 16, V § 3.
[29] Acad. I § 46.
[30] Brut. § 315 f.
[31] Brut. § 315, Plutarch vit. Cic. c. 4.
[32] Reid, Introd. to Cic. Academ. p. vi ed. 1.

the Stoic, one of the most accomplished men of the day, lived for many years, from B.C. 88 until his death, as an inmate of his house; and he spent his time in close study with him. Cratippus, the head of the Peripatetic School at Athens, under whose tuition he placed his son, was pronounced by him to be the greatest of those whom he had heard, and not inferior in merit to the most eminent of his school. We should expect *a priori* that such diversified experience of theories and teachers would operate together with the natural tendencies of the age as a predisposing influence to a greater or less degree of scepticism—especially in a man of Cicero's peculiar weakness and indecision of character—and to an inclination for discussing prevailing opinions rather than for independent research. To most men indeed of his peculiar temperament the teaching of the new Academy with its laxity of first principles and elasticity of doctrine would be most congenial. But though Cicero acknowledges himself a follower of the Academy as revived by Carneadês [ob. B.C. 129], he is far from being a Sceptic on scientific grounds and from inward conviction of the absolute impossibility of all knowledge. He merely rebels against dogmatism and positiveness, which he denounces as presumptuous; and one main object of philosophy with him was to keep clear of the arrogance of maintaining any position with a conviction of its irrefragable truth and absolute certainty. 'The only prudent course was to withhold absolute assent from all doctrines, while giving a qualified assent to those which seemed most probable...He repeatedly insists that the diversities of opinion which the most famous intellects display ought to lead men to teach one another with all gentleness and meekness. In positiveness of assertion there seemed to be something reckless and disgraceful, unworthy of a self-controlled character,—free conflict of opinion, in fact, was necessary to the progress of Philosophy'[33].

[33] Reid, Introd. to Cic. Academ. p. xvii ed. 1. He compares de nat. d. I § 5 and Tusc. II § 5 where Cic. speaks contemptuously of those *qui certis quibusdam destinatisque sententiis quasi addicti et consecrati sunt*

The doctrines of the Porch, with its austere moral theory and its indifference to external circumstances and material goods, would never have become known to the Roman aristocracy if Stoicism had required or rather admitted of consistency in carrying out its principles, or if genuine old Stoicism had been presented to them in all its uncouthness. Rome was not the place for such a professor of unbending and undiluted Stoicism as Cato; and Cicero[34] himself was the last sort of man to value such inflexibility and want of adaptation to circumstances.

In one respect however its very rigour and inflexibility served to a certain extent as a preventive of its consistency. It was really nothing but a great inconsistency and contradiction, even in the strictest professor of Zeno's doctrine, to wish to endeavour to be virtuous. The proposition that virtue is not a quality (*ἕξις*) of the mind which can be improved by practice, but an unchangeable condition (*διάθεσις τῆς ψυχῆς*) which does not admit of increase or decrease, capable of being possessed only wholly or else not at all, so that we are only then moral when we possess it wholly, and the unwise or non-virtuous man is absolutely vicious, there being no mean betwixt good and evil—such propositions as this are practically vain and useless; for such an ideal standard of virtue is wholly beyond the power of any man to realize, and therefore from the Stoics' own theory it must follow that all men are unwise and vicious.

eaque necessitate constricti, ut etiam, quae non probare soleant, ea cogantur constantiae causa defendere; nos, qui sequimur probabilia nec ultra quam id, quod veri simile occurrit, progredi possumus, et refellere sine pertinacia et refelli sine iracundia parati sumus. Cf. also Acad. II §§ 7, 8, de off. II § 8 *nos autem, ut ceteri alia certa, alia incerta esse dicunt, sic ab his dissentientes alia probabilia, contra alia dicimus. Quid est igitur quod me impediat ea quae probabilia mihi videantur sequi, quae contra, improbare atque affirmandi arrogantiam vitantem fugere temeritatem, quae a sapientia dissidet plurimum.*

[34] See n. to § 88 ll. 26, 27 and cf. Att. II i 8 *Catonem nostrum non tu amas plus quam ego, sed tamen ille optimo animo utens et summa fide nocet interdum rei publicae; dicit enim tamquam in Platonis πολιτείᾳ, non tamquam in Romuli faece sententiam.*

To teach men morals, who have faults and are accordingly, in the strict Stoic view, incorrigible fools and sinners, is in itself an incongruity, which however did not prevent either Zeno or Chrysippus from discoursing on moral duties; but Panaetius and his school took a less exalted view of general morality, descending to the level of common life[35]. And there were other Stoics also before Panaetius, who relaxed some of the rigour of their school.

We cannot be surprised that this modification of Stoicism should have become fashionable at Rome, and Cicero needed no special justification for associating himself with the ethical teaching of a school which had the reputation—however little deserved—of making such strong claims on the morals of its adherents. The necessity of living virtuous lives and avoiding vice was taught by all schools alike; they differed only as to the 'why and wherefore.' The Stoics in their exalted notions of virtue and contempt of external things, which they would not allow to be good, went too far for ordinary men, they made themselves only too good; and their big phrases consequently were mere empty sounds, in which no one believed.

§ 5 *Sources of the treatise and its subject*

We have Cicero's own confession in several passages that the treatise of Panaetius [ob. B.C. 112] περὶ τοῦ καθήκοντος was his *fons primarius* in the present work; see especially III 2 *quem nos correctione quadam adhibita potissimum secuti sumus.*

[35] Sometimes they went so far as to enunciate principles which are questionable even according to the vulgar notions of morality, as in I 10, 32 *nec promissa igitur servanda sunt ea quae sint eis, quibus promiseris, inutilia, nec, si plus tibi ea noceant, quam illi prosint cui promiseris, contra officium est maius anteponi minori*, and II 14, 51 *patroni est non numquam veri simile, etiamsi minus sit verum, defendere*, upon which Cicero observes:—*quod scribere, praesertim cum de philosophia scriberem, non auderem, nisi idem placeret gravissimo Stoicorum Panetio*,—and III 29, 107 on mental reservation in taking an oath.

To what extent he drew upon his source, and what part of his work is original, though we cannot follow it out in detail, we may form a general notion. It is true that he expressly guards in other passages against the supposition that he merely translated the original: *Sequemur Stoicos, non ut interpretes, sed, ut solemus, e fontibus eorum iudicio arbitrioque nostro, quantum quoque modo videbitur, hauriemus* I 2, 6, and II 17, 60 *Panaetius, quem multum in his libris secutus sum, non interpretatus.* But, on the other hand, that he did follow Panaetius closely, especially in the First Book—not only in the general arrangement of his subject and in its leading ideas, but also in most of the details, as in his choice of examples and oftentimes even in his expression—this is partly self-evident, partly a just inference from the method in which the ancients generally, and Cicero himself in his other writings, were accustomed to employ their sources; though in this treatise, which was specially regulated by and suited to Roman ideas, he shows more independence than in his larger philosophical works.

In the very beginning (§ 10) of the **First Book**—which treats of the *honestum* (τὸ καλόν), subdivided into the four cardinal virtues—Cicero finds fault with the incompleteness of Panaetius's division of his subject, and his omission of the question *duobus propositis honestis utrum honestius.* Cicero discusses this subject of a conflict between particular virtues independently from CH. xliii 152 to the end, in a cursory manner indeed and not without adapting Poseidonius (CH. xlv 159). But we shall not be doing him an injustice, if we assume that, apart from certain additions and even omissions, he has in his First Book really reproduced the substance of the corresponding part of Panaetius's work.

In the **Second Book**, which treats of the *utile*, we have only to glance at such passages as CH. viii 26 ff., CHH. xiii and xiv, CH. xvi f., CHH. xix 65 ff. and xxi, and the last meagre section CH. xxv, containing the *comparatio utilitatum*, to be convinced that we are not reading a mere translation from a Greek philosophical work. In § 86 also two points are lightly touched upon, which Antipater of Tyre found wanting in Panaetius. On the

other hand, when in CH. v 16 and in CH. x 35 Cicero speaks of his own independent treatment of the subject and criticizes or appeals to that of Panaetius, it is a proof indeed, if any were needed, that he does not stick to his subject-matter slavishly, but it argues rather in favour of than against his dependence on his authorities in these passages. Generally, however, the Second Book gives us the impression of greater independence of judgment on the writer's part, even in the arrangement of the subject.

In the **Third Book**, the question is broached, how we are to act in case of a conflict between the *honestum* and the *utile*, i.e. between that which is good in itself and abstractedly, and that which is good in reference to external objects. Panaetius himself had intended to answer this question, but he did not fulfil his intention (§ 7).

In this discussion Cicero prides himself on his greater self-dependence § 34: *Hanc partem relictam explebimus nullis adminiculis, sed, ut dicitur, Marte nostro. Neque enim quicquam est de hac parte post Panaetium explicatum, quod quidem mihi probaretur, de eis quae in manus meas venerunt.* But it does not necessarily follow from this statement that he has not availed himself of any other sources. In fact he expressly mentions several such by name:—Poseidonius, § 8; Hekatôn of Rhodes, § 63 and § 89; Diogenes of Babylon, and Antipater of Tarsus, § 51 to § 55 and § 91. But we can easily believe, without any express assurance on his part, that he did not follow any of these authorities in the same way as he has followed Panaetius in his First and Second Books. Of Poseidonius indeed Cicero says that he has touched only briefly on the subject *in quibusdam commentariis*; from him then Cicero cannot have borrowed much in this Third Book, which contains but little systematic exposition, and is mostly taken up with examples and illustrations.

Again, it would appear that he had never even seen the writings of Diogenes and Antipater but had learned their views at second hand, if we may judge from his mode of quotation, by which he unconsciously reveals to us the fact that he had never

read them himself. He begins by parading the opposing views of the two philosophers, and starts an imaginary dialogue between them (§§ 51—55)—probably not his own invention but that of some one who knew them thoroughly—and then (§§ 89—91) puts some questions of conscience from the Sixth Book of Hekatôn, who was a pupil of Panaetius, as Cicero tells us (§ 63), and therefore much younger than Diogenes and Antipater; for Antipater was a pupil of Diogenes, and Panaetius himself of Antipater. Among these problems of Hekatôn is one (§ 91) about which there was a similar difference of opinion between Diogenes and Antipater, as that about the preceding question. This can only be explained by supposing that Hekatôn expatiates in his Sixth Book on the difference of opinion between these two philosophers, and that Cicero owes his knowledge of the views of Diogenes and Antipater indirectly to Hekatôn; for it is an absurdity to suppose that they—his elders—could have come to a decision on questions started by Hekatôn, as must be assumed from Cicero's representation. But if Cicero in this one instance knew Diogenes and Antipater only indirectly through Hekatôn, it may be taken for granted that this is the case where he quotes them for the first time without naming Hekatôn. The opinions broached in §§ 21—32, with the mention of Hercules and Phalaris, are altogether in the spirit of the solutions ascribed to Hekatôn in § 89 f, and the manner also of stating and solving the problems in § 29 coincides with that peculiar to Hekatôn. It appears then that Cicero had no sources to rely on in his Third Book except Poseidonius[36] and Hekatôn, the former of whom can scarcely be considered such, and the latter perhaps not at all. For when we remember that Cicero for his Third Book sent for a Poseidonius and got his materials from Athenodorus Calvus the Stoic (see p. viii n.), and consider that it is hardly likely that he should

[36] See ante pp. xv, xix. Poseidonius of Apameia, a pupil of the Stoic Panaetius, taught at Rhodes. He more than once visited Rome, where he died B.C. 51. Among his works was a treatise on Ethics (ἠθικὸς λόγος).

have had in his possession a copy of the work of Hekatôn—whom he never mentions elsewhere—much less that he should have had one at hand in his country house—we may fairly conclude that he was satisfied with the *bellum* ὑπόμνημα of Athenodorus, who contented himself with simply making extracts from Hekatôn, and possibly supplied the notice also of Antipater of Tyre at the end of the Second Book.

And how has Cicero worked up his material? Obviously in a cursory and superficial manner. While in the First and Second Books he has not shown indifference to the due arrangement of his subject—its several divisions and subdivisions—though with characteristic but unintentional want of precision; in the Third Book he abandons all such systematic treatment, and in the first passage (§ 96) where mention is made of a classification, he bungles so completely that some editors, jealous of his reputation, pronounce it to be spurious. After the usual introduction concerning his personal position, which has nothing to do with the contents of the Book, he speaks (§§ 7—11) of the relation of Panaetius to the subject. He then explains how far, according to Stoic principles, there can be any question of a conflict between moral rectitude and expediency. From § 19 to § 32 he considers the general rule for the determination of such cases, and gives examples in illustration. After a pretty full discussion of the subject, he remarks (§ 33): *Eius modi igitur credo res Panaetium persecuturum fuisse, nisi aliqui casus aut occupatio eius consilium peremisset*, from which we see that Cicero regarded the preceding discussion as merely introductory, to be followed up afterwards by the actual treatise, as if the subject had not been already so far exhausted that the part of it, which was most essential for arriving at a decision, had been thoroughly sifted. From § 33 onwards there is no attempt at arrangement or connexion of thought, and we are not told by the writer until § 96 that in this Book, as in the other two, the four cardinal virtues have been taken as the basis of his proof, and that he has already dealt with the first two—prudence and justice. Instances of his defective reasoning may be seen in § 14, § 17, § 27, § 88 and § 102, and his illustrative

examples are not always relevant, see § 114, § 117. The whole Book in short has the appearance of being less a scientific and systematic treatise than the improvised lively small talk of a cultivated man, influenced by party and class prejudices, on the subject of probity in dealing with men.

The text of the present Edition agrees in the main with that of C. F. W. Müller in his Second Edition with German notes *für den Schulgebrauch*, Leipzig 1882; the First Edition in the Teubner Series with critical Notes, 1879, differs from this in some of its readings. The following is a list of the readings in Müller², not adopted in my edition and unnoticed in my critical footnotes in which I have recorded the variants of the other principal editions:—

p. 6 l. 13 *qui quidem*
p. 7 l. 13 *qua*
p. 13 l. 20 *humanitate corporis*
p. 14 l. 2 *superioribus libris ex quibus*
p. 15 l. 3 *venerunt* contra codd.
p. 17 l. 13 *quamquam*
p. 19 l. 1 *quocum*
p. 23 l. 13 *idem*
p. 26 l. 23 *ut tutela* cum codd.
p. 27 l. 10 *P. f.*
p. 29 l. 12 *omnes* om. cum codd.
,, l. 17 *eae serviebant* contra codd.
p. 35 l. 14 *praetorium* cum opt. codd.
p. 42 l. 27 *Quid, quod*
p. 47 l. 8 *prima quaeque videamus*

CONTRACTIONS AND ABBREVIATIONS

Al . . .	Alanus (Allen: Dublin 1842)
Ba[1] . . .	Baiter (Orelli Cic. Opp. ed. 2 Zürich 1861)
Ba[2] . . .	Baiter = Kayser (Leipzig 1862)
Be . . .	Beier (Leipzig 1820–1)
H . . .	J. M. Heusinger (ed. Zumpt, Brunswick 1838)
Lu . . .	Lund (Copenhagen 1869)
Mu[1] . . .	C. F. W. Müller (Teubner 1879)
Mu[2] . . .	C. F. W. Müller (Teubner 1882)
Or . . .	Orelli (Cic. Opp. Zürich 1828)
Sa . . .	Sabbadini (Torino 1889)
St . . .	Stuerenburg (Leipzig 1843 ed. 2)
Z or *Zu* . . .	Zumpt

M. TVLLI CICERONIS

DE OFFICIIS

AD MARCVM FILIVM

LIBER TERTIVS

Introduction.—*The Author's Retirement not like that of Scipio Africanus; the one being the effect of choice, the other of necessity.*

I 1. PVBLIVM SCIPIONEM, Marce fili, eum qui primus Africanus appellatus est, dicere solitum scripsit Cato, qui fuit eius fere aequalis, *numquam se minus otiosum esse quam cum otiosus, nec minus solum quam cum solus esset.* Magnifica vero vox et magno viro ac sapiente digna: quae declarat illum et in otio de negotiis cogitare et in solitudine secum loqui solitum, ut neque cessaret umquam et interdum conloquio alterius non egeret. Ita duae res, quae languorem adferunt ceteris, illum acuebant, otium et solitudo. Vellem nobis hoc idem vere dicere liceret, sed si minus imitatione tantam ingeni praestantiam consequi possumus, voluntate certe proxime accedimus. Nam et a re publica forensibusque negotiis armis impiis vique prohibiti otium persequimur et ob eam causam urbe relicta rura peragrantes saepe soli sumus. 2. Sed nec hoc otium cum Africani otio nec haec solitudo cum illa comparanda est. Ille enim requiescens a rei publicae pulcherrimis muneribus otium sibi sumebat aliquando et e coetu hominum frequentiaque interdum tamquam in portum se in solitudinem recipiebat. Nostrum autem otium negoti inopia, non requiescendi studio constitutum

2 est *Ba St Heine Lu cum uno cod.*, *vulgo* sit ‖ 8 ita *Ba Heine Lu cum codd.*, itaque *Or Zu* ‖ 10 hoc idem dicere *Z cum aliquot codd.*

est. Extincto enim senatu deletisque iudiciis quid est quod dignum nobis aut in curia aut in foro agere possimus? 3. Ita qui, in maxima celebritate atque in oculis civium quondam vixerimus, nunc fugientes conspectum sceleratorum, quibus omnia redundant, abdimus nos, quantum licet, et saepe soli sumus. Sed quia sic ab hominibus doctis accepimus, non solum ex malis eligere minima oportere, sed etiam excerpere ex his ipsis, si quid inesset boni, propterea et otio fruor, non illo quidem, quo debebat is, qui quondam peperisset otium civitati, nec eam solitudinem languere patior, quam mihi adfert necessitas, non voluntas. 4. Quamquam Africanus maiorem laudem meo iudicio assequebatur. Nulla enim eius ingeni monumenta mandata litteris, nullum opus oti, nullum solitudinis munus extat: ex quo intellegi debet illum mentis agitatione investigationeque earum rerum, quas cogitando consequebatur, nec otiosum nec solum umquam fuisse. Nos autem, qui non tantum roboris habemus, ut cogitatione tacita a solitudine abstrahamur, ad hanc scribendi operam omne studium curamque convertimus. Itaque plura brevi tempore eversa quam multis annis stante re publica scripsimus.

The Subject of Duties being the most useful part of all Philosophy is most deserving of his Son's attention. Cicero exhorts him to be diligent in the use of the opportunities of study which he enjoys at Athens under Cratippus.

II 5. Sed cum tota philosophia, mi Cicero, frugifera et fructuosa nec ulla pars eius inculta ac deserta sit, tum nullus feracior in ea locus est nec uberior quam de officiis, a quibus constanter honesteque vivendi praecepta ducuntur. Qua re quamquam a Cratippo nostro, principe huius memoriae philosophorum, haec te assidue audire atque accipere

9 debeat *St cum plerisque codd. ut multo urbanius ac modestius quam* debebat

confido, tamen conducere arbitror talibus aures tuas vocibus undique circumsonare nec eas, si fieri possit, quicquam aliud audire. 6. Quod cum omnibus est faciendum, qui vitam honestam ingredi cogitant, tum haud scio an nemini potius quam tibi. Sustines enim non parvam expectationem imitandae industriae nostrae, magnam honorum, non nullam fortasse nominis. Suscepisti onus praeterea grave et Athenarum et Cratippi: ad quos cum tamquam ad mercaturam bonarum artium sis profectus, inanem redire turpissimum est dedecorantem et urbis auctoritatem et magistri. Qua re quantum coniti animo potes, quantum labore contendere—si discendi labor est potius quam voluptas—tantum fac ut efficias neve committas ut, cum omnia suppeditata sint a nobis, tute tibi defuisse videare. Sed haec hactenus: multa enim saepe ad te cohortandi gratia scripsimus. Nunc ad reliquam partem propositae divisionis revertamur.

Fifth General Head of Deliberation.—*General observations on the conflict between Moral Rectitude and Expediency.*
This subject has been passed over by Panaetius, not, however, intentionally, as some suppose.

7. Panaetius igitur, qui sine controversia de officiis accuratissime disputavit quemque nos correctione quadam adhibita potissimum secuti sumus, tribus generibus propositis, in quibus deliberare homines et consultare de officio solerent,—uno, cum dubitarent honestumne id esset de quo ageretur an turpe, altero, utilene esset an inutile, tertio, si id, quod speciem haberet honesti, pugnaret cum eo quod utile videretur, quo modo ea discerni oporteret:—de duobus generibus primis tribus libris explicavit, de tertio autem genere deinceps se scripsit dicturum nec exsolvit id, quod promiserat. 8. Quod eo magis miror, quia scriptum a discipulo eius Posidonio est, triginta annis vixisse Panaetium postea quam illos libros edidisset. Quem locum

miror a Posidonio breviter esse tactum in quibusdam commentariis, praesertim cum scribat nullum esse locum in tota philosophia tam necessarium. 9. Minime vero assentior eis, qui negant eum locum a Panaetio praetermissum, sed consulto relictum nec omnino scribendum fuisse, quia numquam posset utilitas cum honestate pugnare. De quo alterum potest habere dubitationem, adhibendumne fuerit hoc genus, quod in divisione Panaeti tertium est, an plane omittendum, alterum dubitari non potest, quin a Panaetio susceptum sit, sed relictum. Nam qui e divisione tripertita duas partes absolverit, huic necesse est restare tertiam. Praeterea in extremo libro tertio de hac parte pollicetur se deinceps esse dicturum. 10. Accedit eodem testis locuples Posidonius, qui etiam scribit in quadam epistola P. Rutilium Rufum dicere solere, qui Panaetium audierat, ut nemo pictor esset inventus, qui in Coa Venere eam partem, quam Apelles incohatam reliquisset, absolveret—oris enim pulchritudo reliqui corporis imitandi spem auferebat—sic ea, quae Panaetius praetermisisset [et non perfecisset], propter eorum quae perfecisset praestantiam neminem persecutum.

It is a question, however, whether Panaetius did well in proposing to consider this: because there never can be any real conflict between Expediency and Moral Rectitude,

III 11. Quam ob rem de iudicio Panaeti dubitari non potest; rectene autem hanc tertiam partem ad exquirendum officium adiunxerit an secus, de eo fortasse disputari potest. Nam sive honestum solum bonum est, ut Stoicis placet, sive, quod honestum est, id ita summum bonum est, quem ad modum Peripateticis vestris videtur, ut omnia ex altera

19 *verba* et non perfecisset *quae desunt in nonnullis codd. secluserunt Ba Heine Mu* || 20 neminem persecutum *St Heine Lu cum aliquot codd.*, esse persecutum *vulgo*

parte collocata vix minimi momenti instar habeant, dubitandum non est quin numquam possit utilitas cum honestate contendere. Itaque accepimus Socratem execrari solitum eos, qui primum haec natura cohaerentia opinione distraxissent. Cui quidem ita sunt Stoici assensi, ut et, quidquid honestum esset, id utile esse censerent nec utile quicquam, quod non honestum. 12. Quod si is esset Panaetius, qui virtutem propterea colendam diceret, quod ea efficiens utilitatis esset, ut ei, qui res expetendas vel voluptate vel indolentia metiuntur, liceret ei dicere utilitatem aliquando cum honestate pugnare. Sed cum sit is, qui id solum bonum iudicet, quod honestum sit, quae autem huic repugnent specie quadam utilitatis eorum neque accessione meliorem vitam fieri nec decessione peiorem, non videtur debuisse eius modi deliberationem introducere, in qua, quod utile videretur, cum eo, quod honestum est, compararetur. 13. Etenim quod summum bonum a Stoicis dicitur, convenienter naturae vivere, id habet hanc, ut opinor, sententiam: cum virtute congruere semper, cetera autem, quae secundum naturam essent, ita legere, si ea virtuti non repugnarent. Quod cum ita sit, putant quidam hanc comparationem non recte introductam nec omnino de eo genere quicquam praecipiendum fuisse.

whether that of the highest degree which is the exclusive heritage of the perfectly wise man,

Atque illud quidem honestum, quod proprie vereque dicitur, id in sapientibus est solis neque a virtute divelli umquam potest. In eis autem, in quibus sapientia perfecta non est, ipsum illud quidem perfectum honestum nullo modo, similitudines honesti esse possunt. 14. Haec enim officia, de quibus his libris disputamus, media Stoici appellant;

16 honestum esset *Ba Lu cum cod. c* 24 atqui *Fleckeisen Heine Mu*[1]

ea communia sunt et late patent, quae et ingeni bonitate multi assecuntur et progressione discendi. Illud autem officium, quod rectum idem appellant, perfectum atque absolutum est et, ut idem dicunt, omnes numeros habet nec praeter sapientem cadere in quemquam potest.

or that to which ordinary men can attain, and which answers the vulgar idea of perfection. The duties derivable from this latter kind, which the Stoics call media, *form the subject of our enquiry.*

15. Cum autem aliquid actum est, in quo media officia compareant, id cumulate videtur esse perfectum, propterea quod volgus, quid absit a perfecto, non fere intellegit; quatenus autem intellegit, nihil putat praetermissum: quod idem in poëmatis, in picturis usu venit in aliisque compluribus, ut delectentur imperiti laudentque ea, quae laudanda non sint, ob eam, credo, causam quod insit in eis aliquid probi, quod capiat ignaros, qui quid in una quaque re viti sit, nequeant iudicare. Itaque, cum sunt docti
IV a peritis, desistunt facile sententia. Haec igitur officia, de quibus his libris disserimus, quasi secunda quaedam honesta esse dicunt, non sapientium modo propria, sed cum omni hominum genere communia.

Even such men as Cato and Laelius, even the seven sages themselves, were not wise in the highest sense of the word.

16. Itaque eis omnes, in quibus est virtutis indoles, commoventur. Nec vero cum duo Decii aut duo Scipiones fortes viri commemorantur aut cum Fabricius [aut Aristides] iustus nominatur, aut ab illis fortitudinis aut ab hoc iustitiae tamquam a sapiente petitur exemplum. Nemo enim horum

13 qui quidem *codd. multi*, qui idem *cod. a b c*, qui *Madvig deleto* idem *probantibus Heine Lu* || 21 aut Aristides *codd. quae ut spuria secluserunt Ba Heine auctore I. M. Heusingero* || 22 ab hoc *Lactantius*, ab his *Or Lu cum codd.*

sic sapiens ut sapientem volumus intellegi, nec ei, qui sapientes habiti et nominati, M. Cato et C. Laelius, sapientes fuerunt, ne illi quidem septem, sed ex mediorum officiorum frequentia similitudinem quandam gerebant speciemque sapientium. 17. Quocirca nec id, quod vere honestum est, fas est cum utilitatis repugnantia comparari, nec id, quod communiter appellamus honestum, quod colitur ab eis qui bonos se viros haberi volunt, cum emolumentis umquam est comparandum, tamque id honestum, quod in nostram intelligentiam cadit, tuendum conservandumque nobis est quam illud, quod proprie dicitur vereque est honestum, sapientibus; aliter enim teneri non potest, si quae ad virtutem est facta progressio. Sed haec quidem de eis, qui conservatione officiorum existimantur boni. 18. Qui autem omnia metiuntur emolumentis et commodis neque ea volunt praeponderari honestate, ei solent in deliberando honestum cum eo, quod utile putant, comparare; boni viri non solent.

Panaetius meant that Expediency is by men ordinarily although wrongly opposed to Moral Rectitude. How men come to entertain doubt on this subject. Illustration.

Itaque existimo Panaetium, cum dixerit homines solere in hac comparatione dubitare, hoc ipsum sensisse, quod dixerit, 'solere' modo, non etiam 'oportere.' Etenim non modo pluris putare quod utile videatur quam quod honestum sit, sed haec etiam inter se comparare et in his addubitare turpissimum est. Quid ergo est, quod non numquam dubitationem adferre soleat considerandumque videatur? Credo, si quando dubitatio accidit, quale sit id, de quo consideretur. / 19. Saepe enim tempore fit ut, quod

2 sunt habiti *Heine* ‖ 22 honestum sit *Or St tamquam e coni. cum habeat cod. Bern. c*, honestum est *Fleckeisen probante Heine*

turpe plerumque haberi soleat, inveniatur non esse turpe. Exempli causa ponatur aliquid quod pateat latius: Quod potest maius esse scelus quam non modo hominem, sed etiam familiarem hominem occidere? Num igitur se astrinxit scelere, si qui tyrannum occidit quamvis familiarem? Populo quidem Romano non videtur, qui ex omnibus praeclaris factis illud pulcherrimum existimat. Vicit ergo utilitas honestatem? Immo vero honestas utilitatem secuta est.

Hence the necessity for some general Rule to prevent us from being misled by a false appearance of utility in any occasion of doubt. This should conform to the principles of the Stoics: 'Whatever is morally good, is expedient' *and* 'Nothing can be expedient, which is not morally good.'

Itaque, ut sine ullo errore diiudicare possimus, si quando cum illo, quod honestum intellegimus, pugnare id videbitur, quod appellamus utile, formula quaedam constituenda est, quam si sequemur in comparatione rerum, ab officio numquam recedemus. 20. Erit autem haec formula Stoicorum rationi disciplinaeque maxime consentanea, quam quidem his libris propterea sequimur, quod, quamquam et a veteribus Academicis et a Peripateticis vestris, qui quondam idem erant qui Academici, quae honesta sunt, anteponuntur eis quae videntur utilia, tamen splendidius haec ab eis disseruntur, quibus, quidquid honestum est, idem utile videtur nec utile quicquam, quod non honestum, quam ab eis, quibus et honestum aliquid non utile et utile

8 immo vero honestas utilitatem secuta *vel* consecuta est *codd.*, *Mu*[2]; immo vero honestas utilitatem: ut utilitas honestatem secuta est *Ungerus coll. Ambros. de off.* III 9, 60; honestas utilitatem: honestatem utilitas secuta est *Ba Heine Mu*[1] || 18 qui Academici *contra codd. om. Or Z Be* || 19 disserentur *Fabritius Ba cum codd.*, disseruntur *Or Heine Mu Sabbadini c. cod.* **M**

non honestum. Nobis autem nostra Academia magnam licentiam dat, ut, quodcumque maxime probabile occurrat, id nostro iure liceat defendere. Sed redeo ad formulam.

What seeming Expediency is contrary to Nature.
To wrong another for selfish ends tends to subvert human society, and is therefore forbidden (a) *by the law of Nature,*

V 21. Detrahere igitur alteri aliquid et hominem hominis incommodo suum commodum augere magis est contra naturam quam mors, quam paupertas, quam dolor, quam cetera, quae possunt aut corpori accidere aut rebus externis. Nam principio tollit convictum humanum et societatem. Si enim sic erimus adfecti, ut propter suum quisque emolumentum spoliet aut violet alterum, disrumpi necesse est eam, quae maxime est secundum naturam, humani generis societatem. 22. Ut, si unum quodque membrum sensum hunc haberet, ut posse putaret se valere, si proximi membri valetudinem ad se traduxisset, debilitari et interire totum corpus necesse esset, sic, si unus quisque nostrum ad se rapiat commoda aliorum detrahatque quod cuique possit emolumenti sui gratia, societas hominum et communitas evertatur necesse est. Nam sibi ut quisque malit quod ad usum vitae pertineat quam alteri adquirere, concessum est non repugnante natura: illud natura non patitur, ut aliorum spoliis nostras facultates, copias, opes augeamus.

(b) *by the Laws of particular States.*

23. Neque vero hoc solum natura, id est iure gentium, sed etiam legibus populorum, quibus in singulis civitatibus res publica continetur, eodem modo constitutum est, ut non liceat sui commodi causa nocere alteri. Hoc enim spectant leges, hoc volunt, incolumem esse civium coniunctionem, quam qui dirimunt, eos morte exilio, vinclis damno coërcent.

22 natura et iure *Or Be invitis codd.*

Secondly, it is more becoming the dignity of man's nature to practise the virtues, which are the basis of human society, and to encounter risks for the sake of others, than to seek to do wrong for the sake of some external advantage.

Atque hoc multo magis efficit ipsa naturae ratio, quae est lex divina et humana: cui parere qui velit—omnes autem parebunt, qui secundum naturam volent vivere—numquam committet ut alienum appetat et id, quod alteri detraxerit, sibi adsumat. 24. Etenim multo magis est secundum naturam excelsitas animi et magnitudo itemque comitas, iustitia, liberalitas quam voluptas, quam vita, quam divitiae: quae quidem contemnere et pro nihilo ducere comparantem cum utilitate communi magni animi et excelsi est. [Detrahere autem de altero sui commodi causa magis est contra naturam quam mors, quam dolor, quam cetera generis eiusdem.] 25. Itemque magis est secundum naturam pro omnibus gentibus, si fieri possit, conservandis aut iuvandis maximos labores molestiasque suscipere imitantem Herculem illum, quem hominum fama beneficiorum memor in concilio caelestium collocavit, quam vivere in solitudine non modo sine ullis molestiis sed etiam in maximis voluptatibus abundantem omnibus copiis, ut excellas etiam pulchritudine et viribus. Quocirca optimo quisque et splendidissimo ingenio longe illam vitam huic anteponit. Ex quo efficitur hominem naturae oboedientem homini nocere non posse.

He who acts on opposite principles must be either devoid of moral sense or else deluded.

26. Deinde, qui alterum violat, ut ipse aliquid commodi consequatur, aut nihil existimat se facere contra naturam aut

6 communitas *Z alii cum nonnullis codd., cf.* § 118 || 10 *Heusingerus* autem *mutavit in* ergo: *totum locum* detrahere autem...eiusdem *seclusit Ba ut e* § 21 *inculcatum: in suspitionem vocaverat iam Facciolatus*

magis fugiendam censet mortem, paupertatem, dolorem, amissionem etiam liberorum, propinquorum, amicorum, quam facere cuiquam iniuriam. Si nihil existimat contra naturam fieri hominibus violandis, quid cum eo disseras, qui omnino hominem ex homine tollat? Sin fugiendum id quidem censet, sed multo illa peiora, mortem, paupertatem, dolorem, errat in eo, quod ullum aut corporis aut fortunae
VI vitium vitiis animi gravius existimat. Ergo unum debet esse omnibus propositum; ut eadem sit utilitas unius cuiusque et universorum, quam si ad se quisque rapiet, dissolvetur omnis humana consortio.

Thirdly, all men are subject to the same law of nature, which forbids us to wrong another for our own advantage. This rule applies not only to relations etc. but to all mankind alike. The violation of it is the ruin of all justice, liberality, etc.

27. Atque etiam, si hoc natura praescribit, ut homo homini, quicumque sit, ob eam ipsam causam quod is homo sit, consultum velit, necesse est secundum eandem naturam omnium utilitatem esse communem. Quod si ita est, una continemur omnes et eadem lege naturae, idque ipsum si ita est, certe violare alterum naturae lege prohibemur. 28. Verum autem primum, verum igitur extremum. Nam illud quidem absurdum est, quod quidam dicunt, parenti se aut fratri nihil detracturos sui commodi causa, aliam rationem esse civium reliquorum. Hi sibi nihil iuris, nullam societatem communis utilitatis causa statuunt esse cum civibus, quae sententia omnem societatem distrahit civitatis. Qui autem civium rationem dicunt habendam, externorum negant, ei dirimunt communem humani generis societatem, qua sublata beneficentia liberalitas, bonitas iustitia funditus tollitur. Quae qui tollunt etiam adversus

1 fugienda *Ba Heine cum aliquot codd.*, fugiendam *vulgo Lu Mu*
3 cuipiam *Madvig ad fin.* III § 21 p. 466 *cum c*, cuiquam *Ba St Heine*

deos inmortales impii iudicandi sunt. Ab eis enim constitutam inter homines societatem evertunt, cuius societatis artissimum vinculum est magis arbitrari esse contra naturam hominem homini detrahere sui commodi causa quam omnia incommoda subire vel externa vel corporis ** vel etiam ipsius animi, quae vacent iustitia; haec enim una virtus omnium est domina et regina virtutum.

Two Cases, in which the interests of the community at large and of individuals are seemingly opposed.

29. Forsitan quispiam dixerit: 'Nonne igitur sapiens, si fame ipse conficiatur, abstulerit cibum alteri, homini ad nullam rem utili?' [Minime vero. Non enim mihi est vita mea utilior quam animi talis adfectio, neminem ut violem commodi mei gratia.] 'Quid? si Phalarim, crudelem tyrannum et inmanem, vir bonus, ne ipse frigore conficiatur, vestitu spoliare possit, nonne faciat?' Haec ad iudicandum sunt facillima.

First Case considered and determined.

30. Nam si quid ab homine ad nullam partem utili utilitatis tuae causa detraxeris, inhumane feceris contraque naturae legem: sin autem is tu sis, qui multam utilitatem rei publicae atque hominum societati, si in vita remaneas, adferre possis, si quid ob eam causam alteri detraxeris, non sit reprehendendum. Sin autem id non sit eius modi, suum cuique incommodum ferendum est potius quam de alterius commodis detrahendum. Non igitur magis est contra naturam morbus aut egestas aut quid eius modi quam detractio

6 quae vacent iustitia *St Heine Mu cum codd.*, quae non vacent iustitia *Bonnell Or*, quae vacent iniustitia *Ba Z auctore Ubaldino.* ‖ 10 *verba* minime vero...mei gratia *ut repugnantia iis quae* § 30 *dicuntur cum Ungero seclusit Ba probante Heine*

atque appetitio alieni, sed communis utilitatis derelictio contra naturam est, est enim iniusta. 31. Itaque lex ipsa naturae, quae utilitatem hominum conservat et continet, decernet profecto, ut ab homine inerti atque inutili ad sapientem, bonum, fortem virum transferantur res ad vivendum necessariae, qui si occiderit, multum de communi utilitate detraxerit—modo hoc ita faciat, ut ne ipse de se bene existimans seseque diligens hanc causam habeat ad iniuriam. Ita semper officio fungetur utilitati consulens hominum et ei, quam saepe commemoro, humanae societati.

Second Case considered and determined.

32. Nam quod ad Phalarim attinet, perfacile iudicium est. Nulla est enim societas nobis cum tyrannis, et potius summa distractio est, neque est contra naturam spoliare eum, si possis, quem est honestum necare, atque hoc omne genus pestiferum atque impium ex hominum communitate exterminandum est. Etenim ut membra quaedam amputantur, si et ipsa sanguine et tamquam spiritu carere coeperunt, et nocent reliquis partibus corporis, sic ista in figura hominis feritas et inmanitas beluae a communi tamquam humanitate corporis segreganda est. Huius generis quaestiones sunt omnes eae, in quibus ex tempore officium exquiritur.

Such are the kind of subjects which Panaetius intended to have discussed in his treatise on moral obligations. Cicero professes his design to finish what that Philosopher left imperfect.

He commences with the Postulate that Honestum *is the only or at least the chief Good, it being immaterial, for his present purpose at least, whether the Stoic or the Peripatetic dogma be assumed to be true.*

VII 33. Eius modi igitur credo res Panaetium persecu-

1 aut appetitio *St cum aliquot bonis codd.* ‖ 12 sed potius *Or contra codd. Pro* nobis *Alanus habet* bonis ‖ 19 communi humanitate corporis *codd., quae lectio, si fides Or., stupori librariorum debebatur;*

turum fuisse, nisi aliqui casus aut occupatio eius consilium peremisset. Ad quas ipsas consultationes ex superioribus libris satis multa praecepta sunt, quibus perspici possit quid sit propter turpitudinem fugiendum, quid sit quod idcirco fugiendum non sit, quod omnino turpe non sit. Sed quoniam operi incohato, prope tamen absoluto, tamquam fāstigium imponimus, ut geometrae solent non omnia docere, sed postulare ut quaedam sibi concedantur, quo facilius quae volunt explicent, sic ego a te postulo, mi Cicero, ut mihi concedas, si potes, nihil praeter id, quod honestum sit, propter se esse expetendum. Sin hoc non licet per Cratippum, at illud certe dabis, quod honestum sit, id esse maxume propter se expetendum. Mihi utrumvis satis est et tum hoc, tum illud probabilius videtur nec praeterea quicquam probabile.

Vindication of Panaetius who meant a conflict between seeming Expediency and Moral Rectitude.

34. Ac primum in hoc Panaetius defendendus est, quod non utilia cum honestis pugnare aliquando posse dixerit—neque enim ei fas erat—, sed ea, quae viderentur utilia. Nihil vero utile quod non idem honestum, nihil honestum quod non idem utile sit, saepe testatur negatque ullam pestem maiorem in vitam hominum invasisse quam eorum opinionem, qui ista distraxerint. Itaque non ut aliquando anteponeremus utilia honestis, sed ut ea sine errore diiudicaremus, si quando incidissent, induxit eam, quae videretur esse, non quae esset, repugnantiam. Hanc igitur partem relictam explebimus nullis adminiculis, sed,

humanitatis corpore *unus codex Gu* 3 *ut voluerat Muretus: vulgatum servat St*, communis *pro* communi *posito; vide nott.* 24 eam (*sc.* repugnantiam) sine errore diiudicaremus, si quando incidisset *Unger Heine Lund*

ut dicitur, Marte nostro. Neque enim quicquam est de hac parte post Panaetium explicatum, quod quidem mihi probaretur, de eis quae in manus meas venerint.

Proof that what is morally wrong cannot be really expedient, and whatever is right must also be expedient.

VIII 35. Cum igitur aliqua species utilitatis obiecta est, commoveri necesse est. Sed si, cum animum attenderis, turpitudinem videas adiunctam ei rei, quae speciem utilitatis attulerit, tum non utilitas relinquenda est, sed intellegendum, ubi turpitudo sit, ibi utilitatem esse non posse. Quod si nihil est tam contra naturam quam turpitudo—recta enim et convenientia et constantia natura desiderat aspernaturque contraria—nihilque tam secundum naturam quam utilitas, certe in eadem re utilitas et turpitudo esse non potest. Itemque, si ad honestatem nati sumus eaque aut sola expetenda est, ut Zenoni visum est, aut certe omni pondere gravior habenda quam reliqua omnia, quod Aristoteli placet, necesse est, quod honestum sit, id esse aut solum aut summum bonum: quod autem bonum, id certe utile, ita, quidquid honestum, id utile.

Mischievous effects of the contrary sentiment.

36. Qua re error hominum non proborum, cum aliquid, quod utile visum est, arripuit, id continuo secernit ab honesto. Hinc sicae, hinc venena, hinc falsa testamenta nascuntur, hinc furta peculatus, expilationes direptionesque sociorum et civium, hinc opum nimiarum, potentiae non ferendae, postremo etiam in liberis civitatibus regnandi existunt cupiditates, quibus nihil nec taetrius nec foedius excogitari potest. Emolumenta enim rerum fallacibus iudiciis vident, poenam non dico legum, quam saepe

27 quam *Ba Heine Lu St cum codd.*, quas *Or: male*, '*cum leges perrumpuntur, perrumpitur etiam poena legibus constituta*' *Z.* *Confert*

perrumpunt, sed ipsius turpitudinis, quae acerbissima est, non vident.

When an action is certainly wrong, it is criminal even to deliberate whether we shall do it or not, whatever seeming profit it may bring along with it, in the hope of concealment that so we may do it with impunity.

Story of Gyges and his Ring.

37. Quam ob rem hoc quidem deliberantium genus pellatur e medio—est enim totum sceleratum et impium—, qui deliberant utrum id sequantur, quod honestum esse videant, an se scientes scelere contaminent; in ipsa enim dubitatione facinus inest, etiam si ad id non pervenerint. Ergo ea deliberanda omnino non sunt, in quibus est turpis ipsa deliberatio. Atque etiam ex omni deliberatione celandi et occultandi spes opinioque removenda est: satis enim nobis, si modo in philosophia aliquid profecimus, persuasum esse debet, si omnes deos hominesque celare possimus nihil tamen avare nihil iniuste, nihil libidinose nihil incontinenter
IX esse faciendum. 38. Hinc ille Gyges inducitur a Platone, qui, cum terra discessisset magnis quibusdam imbribus, descendit in illum hiatum aëneumque equum, ut ferunt fabulae, animadvertit, cuius in lateribus fores essent: quibus apertis corpus hominis mortui vidit magnitudine inusitata anulumque aureum in digito, quem ut detraxit, ipse induit—erat autem regius pastor—, tum in concilium se pastorum recepit. Ibi cum palam eius anuli ad palmam converterat, a nullo videbatur, ipse autem omnia videbat: idem rursus videbatur, cum in locum anulum inverterat. Itaque hac opportunitate anuli usus reginae stuprum intulit eaque adiutrice regem dominum interemit, sustulit quos obstare arbitrabatur, nec in his eum facinoribus quisquam

Baiterus Orat. Part. § 112 perrumpere periculum; *Verr.* 1 § 13 quaestiones perrumpere ‖ 19 invisitata *Ba Mu: vulgo* inusitata

potuit videre. Sic repente anuli beneficio rex exortus est Lydiae. Hunc igitur ipsum anulum si habeat sapiens, nihilo plus sibi licere putet peccare, quam si non haberet. Honesta enim bonis viris, non occulta quaeruntur. 39. Atque hoc loco philosophi quidam, minime mali illi quidem sed non satis acuti, fictam et commenticiam fabulam prolatam dicunt a Platone, quasi vero ille aut factum id esse aut fieri potuisse defendat. Haec est vis huius anuli et huius exempli: si nemo sciturus, nemo ne suspicaturus quidem sit, cum aliquid divitiarum potentiae, dominationis libidinis causa feceris, si id dis hominibusque futurum sit semper ignotum, sisne facturus? Negant id fieri posse. Nequaquam potest id quidem. Sed quaero, quod negant posse, id si posset, quidnam facerent? Urguent rustice sane. Negant enim posse et in eo perstant, hoc verbum quid valeat non vident. Cum enim quaerimus, si celare possint, quid facturi sint, non quaerimus, possintne celare, sed tamquam tormenta quaedam adhibemus, ut, si responderint se impunitate proposita facturos quod expediat, facinorosos se esse fateantur; si negent, omnia turpia per se ipsa fugienda esse concedant. Sed iam ad propositum revertamur.

There are some perplexing Cases wherein men doubt, whether a seemingly expedient action be morally right or not.

X 40. Incidunt multae saepe causae, quae conturbent animos utilitatis specie, non, cum hoc deliberetur, relinquendane sit honestas propter utilitatis magnitudinem— nam id quidem improbum est—, sed illud, possitne id, quod utile videatur, fieri non turpiter.

3 nihilo plus *Ba Heine Mu cum uno cod. c* || *verba* peccare quam si non haberet *secluserunt Ba Lu auctore Madvigio* || 13 nequaquam *Facc. Ern. Ba Heine post Manutium*, quamquam *Or St Zu Mu cum codd.* || 24 deliberetur *vulgo*, deliberatur *Heumann, Heine*

The Desire of Honour, Empire, etc. may blind men's eyes, and make them hesitate about the justice of an action, as in the case of Brutus banishing Collatinus,

Cum Collatino collegae Brutus imperium abrogabat, poterat videri facere id iniuste: fuerat enim in regibus expellendis socius Bruti consiliorum et adiutor. Cum autem consilium hoc principes cepissent, cognationem Superbi nomenque Tarquiniorum et memoriam regni esse tollendam, quod erat utile, patriae consulere, id erat ita honestum, ut etiam ipsi Collatino placere deberet. Itaque utilitas valuit propter honestatem, sine qua ne utilitas quidem esse potuisset.

or else cause them to act contrary to justice and natural affection, as Romulus did when he murdered his brother.

41. At in eo rege, qui urbem condidit, non item. Species enim utilitatis animum pepulit eius: cui cum visum esset utilius solum quam cum altero regnare, fratrem interemit. Omisit hic et pietatem et humanitatem, ut id, quod utile videbatur neque erat, assequi posset, et tamen muri causam opposuit, speciem honestatis nec probabilem nec sane idoneam. 42. Peccavit igitur, pace vel Quirini vel Romuli dixerim.

Men are to take care of their own interests, provided that they can do so without prejudice to others.

Nec tamen nostrae nobis utilitates omittendae sunt aliisque tradendae, cum eis ipsi egeamus, sed suae cuique utilitati, quod sine alterius iniuria fiat, serviendum est.

Apt observation of Chrysippus to this effect.

Scite Chrysippus, ut multa: 'Qui stadium' inquit 'currit, eniti et contendere debet quam maxume possit ut vincat,

15 neque probabilem *Or contra codd.* || 19 quoad sine *Halmius coll.* § 43 l. 14 || 21 ut multa. Ut qui *St e cod. Bern. c*

supplantare eum, quicum certet, aut manu depellere nullo modo debet: sic in vita sibi quemque petere quod pertineat ad usum non iniquum est, alteri deripere ius non est.'

Again, Love of Friends may sometimes cause men to swerve from their Duty.

Rule: Never prefer what seems profitable, such as Riches, Pleasure, to the obligations of Friendship; and never serve a friend to the injury of the public, the breach of one's oath, or other solemn engagement.

43. Maxume autem perturbantur officia in amicitiis, quibus et non tribuere quod recte possis et tribuere quod non sit aequum contra officium est. Sed huius generis totius breve et non difficile praeceptum est. Quae enim videntur utilia, honores, divitiae, voluptates, cetera generis eiusdem, haec amicitiae numquam anteponenda sunt. At neque contra rem publicam neque contra ius iurandum ac fidem amici causa vir bonus faciet, ne si iudex quidem erit de ipso amico. Ponit enim personam amici cum induit iudicis. Tantum dabit amicitiae, ut veram amici causam esse malit, ut orandae litis tempus, quoad per leges liceat, accommodet. 44. Cum vero iurato sententia dicenda erit, meminerit deum se adhibere testem, id est, ut ego arbitror, mentem suam, qua nihil homini dedit deus ipse divinius. Itaque praeclarum a maioribus accepimus morem rogandi iudicis, si eum teneremus, QVAE SALVA FIDE FACERE POSSIT. Haec rogatio ad ea pertinet, quae paullo ante dixi honeste amico a iudice posse concedi. Nam si omnia facienda sint, quae amici velint, non amicitiae tales sed coniurationes putandae sint.

The friendship between Damo and Phintias.

45. Loquor autem de communibus amicitiis: nam in sapientibus viris perfectisque nihil potest esse tale.

15 dicenda est *Ba auctore Lund;* dicenda sit *Be Z Or cum codd.*; dicenda erit *Heine* ‖ 16 habere *bc*, *Lactantius Mu*[2]

Damonem et Phintiam Pythagoreos ferunt hoc animo inter se fuisse, ut, cum eorum alteri Dionysius tyrannus diem necis destinavisset et is, qui morti addictus esset, paucos sibi dies commendandorum suorum causa postulavisset, vas factus sit alter eius sistendi, ut, si ille non revertisset, moriendum esset ipsi. Qui cum ad diem se recepisset, admiratus eorum fidem tyrannus petivit, ut se ad amicitiam tertium ascriberent. 46. Cum igitur id, quod utile videtur in amicitia, cum eo, quod honestum est, comparatur, iaceat utilitatis species, valeat honestas. Cum autem in amicitia, quae honesta non sunt, postulabuntur, religio et fides anteponatur amicitiae. Sic habebitur is, quem exquirimus, dilectus offici.

Political Communities especially have been often drawn to what is bad by the appearance of profit.
Instances.

XI Sed utilitatis specie in republica saepissime peccatur, ut in Corinthi disturbatione nostri: durius etiam Athenienses, qui sciverunt ut Aeginetis, qui classe valebant, pollices praeciderentur. Hoc visum est utile: nimis enim imminebat propter propinquitatem Aegina Piraeeo. Sed nihil quod crudele utile: est enim hominum naturae, quam sequi debemus, maxime inimica crudelitas. 47. Male etiam qui peregrinos urbibus uti prohibent eosque exterminant, ut Pennus apud patres nostros, Papius nuper. Nam esse pro cive, qui civis non sit, rectum est non licere, quam legem tulerunt sapientissimi consules Crassus et Scaevola: usu vero urbis prohibere peregrinos sane inhumanum est.

4 factus est *codd. quod servavit St plene interpuncto post verba* inter se fuisse; factus sit *Or Ba Heine Mu post Manutium* ‖ 22 Fannius *St ex Beieri coni.*

Examples of the contrary, where the appearance of profit is sacrificed to Duty.

Illa praeclara, in quibus publicae utilitatis species prae honestate contemnitur. Plena exemplorum est nostra res publica cum saepe tum maxime bello Punico secundo, quae Cannensi calamitate accepta maiores animos habuit quam umquam rebus secundis: nulla timoris significatio, nulla mentio pacis. Tanta vis est honesti, ut speciem utilitatis obscuret. 48. Athenienses cum Persarum impetum nullo modo possent sustinere statuerentque ut urbe relicta coniugibus et liberis Troezene depositis naves conscenderent libertatemque Graeciae classe defenderent, Cyrsilum quendam suadentem, ut in urbe manerent Xerxemque reciperent, lapidibus cooperuerunt. Atque ille utilitatem sequi videbatur, sed ea nulla erat repugnante honestate. 49. Themistocles post victoriam eius belli, quod cum Persis fuit, dixit in contione se habere consilium rei publicae salutare, sed id sciri non opus esse: postulavit ut aliquem populus daret, quicum communicaret. Datus est Aristides. Huic ille, classem Lacedaemoniorum, quae subducta esset ad Gytheum, clam incendi posse, quo facto frangi Lacedaemoniorum opes necesse esset. Quod Aristides cum audisset, in contionem magna expectatione venit dixitque perutile esse consilium, quod Themistocles adferret, sed minime honestum. Itaque Athenienses, quod honestum non esset, id ne utile quidem putaverunt totamque eam rem, quam ne audierant quidem, auctore Aristide repudiaverunt. Melius hi quam nos, qui piratas inmunes, socios vectigales habemus.

3 saepe alias *Or, conf.* II § 20 III § 86 *et vide Madvig Opusc. Acad.* I *p.* 339, saepe *Ba Heine Lu Mu* || 12 obruerunt *Ba Heine Mu cum Nonio et codd.*, cooperuerunt *Or St, conf. Verr. Act.* I, 46, 119 || atque *codd.*, atqui *Z Heine Ba* II *Mu*

PARTICULAR CONCLUSIONS:—A. *Where Craft, assuming the guise of Wisdom, brings Expediency into seeming collision with Justice.*

CH. XII—XXV. *Cases of reticence, in which honest men doubt, as of concealment of something for selfish purposes by the Seller, which it would be for the interest of the Buyer to know.*

XII Maneat ergo, quod turpe sit, id numquam esse utile, ne tum quidem, cum id quod utile esse putes adipiscare: hoc enim ipsum, utile putare quod turpe sit, calamitosum est. 50. Sed incidunt, ut supra dixi, saepe causae, cum repugnare utilitas honestati videatur, ut animadvertendum sit repugnetne plane an possit cum honestate coniungi. Eius generis hae sunt quaestiones: Si exempli gratia vir bonus Alexandrea Rhodum magnum frumenti numerum advexerit in Rhodiorum inopia et fame summaque annonae caritate, si idem sciat complures mercatores Alexandrea solvisse navesque in cursu frumento onustas petentes Rhodum viderit, dicturusne sit id Rhodiis an silentio suum quam plurimo venditurus? Sapientem et bonum virum fingimus: de eius deliberatione et consultatione quaerimus, qui celaturus Rhodios non sit, si id turpe iudicet, sed dubitet an turpe non sit.

Difference of opinion between Diogenes of Babylonia and Antipater respecting the duty of honest men in such cases, illustrated by the example of the Alexandrian merchant,

51. In huius modi causis aliud Diogeni Babylonio videri solet, magno et gravi Stoico, aliud Antipatro, discipulo eius, homini acutissimo: Antipatro omnia patefacienda, ut ne quid omnino, quod venditor norit, emptor ignoret; Diogeni venditorem, quatenus iure civili constitutum sit, dicere vitia oportere, cetera sine insidiis agere et, quoniam vendat, velle quam optume vendere. 'Advexi,

exposui, vendo meum non pluris quam ceteri, fortasse etiam minoris, cum maior est copia: cui fit iniuria?'

(*Their arguments* pro *and* con *in this case.*)

52. Exoritur Antipatri ratio ex altera parte: 'Quid ais? tu, cum hominibus consulere debeas et servire humanae societati eaque lege natus sis et ea habeas principia naturae, quibus parere et quae sequi debeas, ut utilitas tua communis sit utilitas vicissimque communis utilitas tua sit, celabis homines quid eis adsit commoditatis et copiae?' Respondebit Diogenes fortasse sic: 'Aliud est celare, aliud tacere, neque ego nunc te celo, si tibi non dico quae natura deorum sit, qui sit finis bonorum, quae tibi plus prodessent cognita quam tritici vilitas. Sed non, quidquid tibi audire utile est, id mihi dicere necesse est.'—53. 'Immo vero' inquiet ille 'necesse est, si quidem meministi esse inter homines natura coniunctam societatem.'—'Memini' inquiet ille, 'sed num ista societas talis est, ut nihil suum cuiusque sit? Quod si ita est, ne vendundum quidem quicquam est,
XIII sed donandum.' Vides in hac tota disceptatione non illud dici 'Quamvis hoc turpe sit, tamen, quoniam expedit, faciam'; sed ita expedire, ut turpe non sit; ex altera autem parte, ea re, quia turpe sit, non esse faciendum.

and by that of the Vendor of a house who conceals some of its defects from the Purchaser.

54. Vendat aedes vir bonus propter aliqua vitia, quae ipse norit, ceteri ignorent, pestilentes sint et habeantur salubres, ignoretur in omnibus cubiculis apparere serpentes, male materiatae *sint*, ruinosae,—sed hoc praeter dominum

13 *verba* immo vero inquiet ille necesse est *desunt in opt. codd., habet Cod. c* ‖ 16 cuiusquam *Z Or cum aliquot codd.* '*Quod si Cicero dicere voluisset, aut* nihil cuiusquam *omisso* suum *aut* nihil cuiusquam suum *dixisset.*' *St* ‖ 25 sint *abest a codd.*

nemo sciat: quaero, si haec emptoribus venditor non dixerit aedesque vendiderit pluris multo quam se venditurum putarit, num id iniuste aut improbe fecerit? 'Ille vero' inquit Antipater.

(*Their arguments* pro *and* con *in this case.*)

55. 'Quid est enim aliud erranti viam non monstrare, quod Athenis execrationibus publicis sanctum est, si hoc non est, emptorem pati ruere et per errorem in maximam fraudem incurrere? Plus etiam est quam viam non monstrare: nam est scientem in errorem alterum inducere.' Diogenes contra: 'Num te emere coëgit, qui ne hortatus quidem est? ille quod non placebat proscripsit, tu quod placebat emisti. Quod si qui proscribunt: VILLAM BONAM BENEQVE AEDIFICATAM, non existimantur fefellisse, etiamsi illa nec bona est nec aedificata ratione, multo minus qui domum non laudarunt. Ubi enim iudicium emptoris est, ibi fraus venditoris quae potest esse? Sin autem dictum non omne praestandum est, quod dictum non est, id praestandum putas? Quid vero est stultius quam venditorem eius rei, quam vendat, vitia narrare? quid autem tam absurdum quam si domini iussu ita praeco praedicet: DOMVM PESTILENTEM VENDO?' 56. Sic ergo in quibusdam causis dubiis ex altera parte defenditur honestas, ex altera ita de utilitate dicitur, ut id, quod utile videatur, non modo facere honestum sit, sed etiam non facere turpe.

Cicero's own decision of the two Cases.

Haec est illa quae videtur utilium fieri cum honestis saepe dissensio. Quae diiudicanda sunt: non enim, ut quaereremus, exposuimus, sed ut explicaremus. 57. Non

3 id *om. Or Z cum bonis codd.* || 18 [est] stultius *Or*

igitur videtur nec frumentarius ille Rhodios nec hic aedium venditor celare emptores debuisse. Neque enim id est celare, quidquid reticeas, sed cum, quod tu scias, id ignorare emolumenti tui causa velis eos, quorum intersit id scire. Hoc autem celandi genus quale sit et cuius hominis, quis non videt? Certe non aperti non simplicis, non ingenui non iusti, non viri boni, versuti potius obscuri, astuti fallacis, malitiosi callidi, veteratoris vafri. Haec tot et alia plura nonne inutile est vitiorum subire nomina?

Cases of downright falsehood, as in the fraud practised upon Canius a Roman knight by Pythius, a banker of Syracuse,

XIV 58. Quod si vituperandi qui reticuerunt, quid de eis existimandum est, qui orationis vanitatem adhibuerunt? C. Canius, eques Romanus nec infacetus et satis litteratus, cum se Syracusas otiandi, ut ipse dicere solebat, non negotiandi causa contulisset, dictitabat se hortulos aliquos emere velle, quo invitare amicos et ubi se oblectare sine interpellatoribus posset. Quod cum percrebruisset, Pythius ei quidam, qui argentariam faceret Syracusis, venales quidem se hortos non habere, sed licere uti Canio, si vellet, ut suis, et simul ad cenam hominem in hortos invitavit in posterum diem. Cum ille promisisset, tum Pythius, qui esset ut argentarius apud omnes ordines gratiosus, piscatores ad se convocavit et ab eis petivit, ut ante suos hortulos postridie piscarentur, dixitque quid eos facere vellet. Ad cenam tempori venit Canius: opipare a Pythio adparatum convivium, cumbarum ante oculos multitudo; pro se quisque quod ceperat, adferebat; ante pedes Pythii pisces abiciebantur. 59. Tum Canius: 'Quaeso' inquit 'quid est hoc, Pythi? tantumne piscium? tantumne cumbarum?' Et ille 'Quid mirum?' inquit 'hoc loco est Syracusis quidquid est piscium, hic aquatio, hac villa isti carere non possunt.'

Incensus Canius cupiditate contendit a Pythio ut venderet. Gravate ille primo. Quid multa? impetrat. Emit homo cupidus et locuples tanti, quanti Pythius voluit, et emit instructos. Nomina facit, negotium conficit. Invitat Canius postridie familiares suos, venit ipse mature, scalmum nullum videt. Quaerit ex proximo vicino num feriae quaedam piscatorum essent, quod eos nullos videret? 'Nullae, quod sciam' inquit 'sed hic piscari nulli solent: itaque heri mirabar quid accidisset.'

which was even criminal according to Aquilius' definition of dolus malus, *so that the perpetrator of it would now-a-days have been amenable to justice.*

60. Stomachari Canius: sed quid faceret? Nondum enim C. Aquilius collega et familiaris meus protulerat de dolo malo formulas: in quibus ipsis cum ex eo quaereretur quid esset dolus malus, respondebat, cum esset aliud simulatum, aliud actum. Hoc quidem sane luculente, ut ab homine perito definiendi. Ergo et Pythius et omnes aliud agentes, aliud simulantes perfidi, improbi, malitiosi. Nullum igitur eorum factum potest utile esse, cum sit tot vitiis inquinatum.

Deduction from Aquilius' definition.

General and special provisions of Roman Law against dolus malus *show the importance attached by our ancestors to strict honour in Contracts and Bargains.*

XV 61. Quodsi Aquiliana definitio vera est, ex omni vita simulatio dissimulatioque tollenda est. Ita nec ut emat melius nec ut vendat, quicquam simulabit aut dissimulabit vir bonus. Atque iste dolus malus et legibus erat vindicatus, ut [in] tutela duodecim tabulis, circumscriptio adulescentium lege Plaetoria, et sine lege iudiciis, in quibus additur EX FIDE BONA. Reliquorum autem iudiciorum haec verba maxime excellunt: in arbitrio rei uxoriae MELIVS

AEQVIVS, in fiducia VT INTER BONOS BENE AGIER. Quid ergo? aut in eo, QVOD MELIVS AEQVIVS, potest ulla pars inesse fraudis? aut, cum dicitur INTER BONOS BENE AGIER, quicquam agi dolose aut malitiose potest? Dolus autem malus in simulatione, ut ait Aquilius, continetur. Tollendum est igitur ex rebus contrahendis omne mendacium. Non inlicitatorem venditor, non qui contra se liceatur emptor apponet. Uterque, si ad eloquendum venerit, non plus quam semel eloquetur.

A rare instance of honourable conduct in Scaevola,

62. Q. quidem Scaevola Publi filius, cum postulasset ut sibi fundus, cuius emptor erat, semel indicaretur idque venditor ita fecisset, dixit se pluris aestimare: addidit centum milia. Nemo est qui hoc viri boni fuisse neget; sapientis negant, ut si minoris quam potuisset vendidisset. Haec igitur est illa pernicies, quod alios bonos, alios sapientes existimant.

which would not have been appreciated by those who, like Ennius and Hecato, are content with a low standard of moral conduct.

Ex quo Ennius '*nequiquam sapere sapientem, qui ipse sibi prodesse non quiret.*' Vere id quidem, si quid esset '*prodesse*' mihi cum Ennio conveniret. 63. Hecatonem quidem Rhodium, discipulum Panaetii, video in eis libris, quos de officio scripsit Q. Tuberoni, dicere '*sapientis esse nihil contra mores, leges, instituta facientem habere rationem rei familiaris. Neque enim solum nobis divites esse volumus, sed liberis, propinquis, amicis maximeque rei publicae. Singulorum enim facultates et copiae divitiae sunt civitatis.*' Huic

7 contra se liceatur *Ba Heine cum plerisque codd.*, contra liceâtur *Or*, contra reliceatur *Z St Lu ex uno cod. Bern. c* || 12 ita fecisset *Ba Heine Mu cum codd.*, fecisset *alii* || 21 officio *Ba St Heine Lu cum optimis codd.*, officiis *Or Z*

Scaevolae factum, de quo paullo ante dixi, placere nullo modo potest. Etenim omnino tantum se negat facturum compendi sui causa, quod non liceat. Huic nec laus magna tribuenda nec gratia est. 64. Sed sive et simulatio et dissimulatio dolus malus est, perpaucae res sunt, in quibus non dolus malus iste versetur; sive vir bonus est is, qui prodest quibus potest, nocet nemini, certe istum virum bonum non facile reperimus. Numquam est igitur utile peccare, quia semper est turpe, et quia semper est honestum virum bonum esse, semper est utile.

Several examples illustrating the effect of the Roman Laws against fraudulent dealing, especially in the sale of Lands, Houses and the like.

XVI 65. Ac de iure quidem praediorum sanctum apud nos est iure civili, ut in eis vendendis vitia dicerentur, quae nota essent venditori. Nam cum ex duodecim tabulis satis esset ea praestari, quae essent lingua nuncupata, quae qui infitiatus esset, dupli poenam subiret, a iuris consultis etiam reticentiae poena est constituta. Quidquid enim esset in praedio viti, id statuerunt, si venditor sciret, nisi nominatim dictum esset, praestari oportere.

Case of Ti. Claudius Centumalus.

66. Ut, cum in arce augurium augures acturi essent iussissentque Ti. Claudium Centumalum, qui aedes in Caelio monte habebat, demoliri ea, quorum altitudo officeret auspiciis, Claudius proscripsit insulam [, vendidit]; emit P. Calpurnius Lanarius. Huic ab auguribus illud idem denuntiatum est. Itaque Calpurnius cum demolitus esset

2 etenim qui...non liceat, huic *Or Beier* || 7 recte *St cum codd.*, *idem* virum iustum *cum plerisque codd.*, certe *ex Lambini coni. Ba Heine Mu plerique edd.* || 13 tabulis *om. H Be contra codd.* || 22 vendidit *om. Ba auctore Cobeto*, *uncis secluserunt Heine Mu*

cognossetque Claudium aedes postea proscripsisse, quam esset ab auguribus demoliri iussus, arbitrum illum adegit, QVIDQVID SIBI DARE FACERE OPORTERET EX FIDE BONA.

Verdict of M. Cato on this case.

M. Cato sententiam dixit, huius nostri Catonis pater. Ut enim ceteri ex patribus, sic hic, qui illud lumen progenuit, ex filio est nominandus. Is igitur iudex ita pronuntiavit, 'cum in vendundo rem eam scisset et non pronuntiasset, emptori damnum praestari oportere.' 67. Ergo ad fidem bonam statuit pertinere notum esse emptori vitium, quod nosset venditor. Quod si recte iudicavit, non recte frumentarius ille, non recte aedium pestilentium venditor tacuit. Sed huiusmodi reticentiae iure civili omnes comprehendi non possunt: quae autem possunt, diligenter tenentur.

Another case of reticence, that of M. Marius Gratidianus. Difference of opinion between Crassus and Antonius on this Case.

M. Marius Gratidianus, propinquus noster, C. Sergio Oratae vendiderat aedes eas, quas ab eodem ipse paucis ante annis emerat. Eae [Sergio] serviebant, sed hoc in mancipio Marius non dixerat. Adducta res in iudicium est. Oratam Crassus, Gratidianum defendebat Antonius. Ius Crassus urguebat, 'quod viti venditor non dixisset sciens, id oportere praestari,' aequitatem Antonius, 'quoniam id vitium ignotum Sergio non fuisset, qui illas aedes vendidisset, nihil fuisse necesse dici nec eum esse deceptum, qui id, quod emerat, quo iure esset teneret.' 68. Quorsus haec? ut illud intellegas, non placuisse maioribus nostris astutos.

17 eae serviebant *Ba Be Heine post Heusingerum coll. Cic. de orat.* § 178, *de leg. agr. III* § 9, ea ergo serviebant *St ex coni.*

Moral Philosophy goes farther than Jurisprudence, which is confined in its operation to that which is material and objective.

XVII Sed aliter leges, aliter philosophi tollunt astutias: leges, quatenus manu tenere possunt, philosophi, quatenus ratione et intellegentia. Ratio ergo hoc postulat, ne quid insidiose, ne quid simulate, ne quid fallaciter. Suntne igitur insidiae tendere plagas, etiam si excitaturus non sis nec agitaturus? ipsae enim ferae nullo insequente saepe incidunt. Sic tu aedes proscribas, tabulam tamquam plagam ponas [domum propter vitia vendas], in eam aliquis incurrat imprudens? 69. Hoc quamquam video propter depravationem consuetudinis neque more turpe haberi neque aut lege sanciri aut iure civili, tamen naturae lege sanctum est. Societas est enim—quod etsi saepe dictum est, dicendum est tamen saepius—latissime quidem quae pateat, omnium inter omnes, interior eorum, qui eiusdem gentis sint, propior eorum, qui eiusdem civitatis.

Distinction between positive Law or the Law of the community (ius civile) *and the Law of Nature* (ius gentium)*: the latter is the Groundwork of the former, which is only a Copy and faint representation of it: the latter considers men as they ought to be, the former as they are.*
Excellence of the Roman Civil Law.
Examples of Roman Rules of Law for the prevention of Fraud.

Itaque maiores aliud ius gentium, aliud ius civile esse voluerunt: quod civile, non idem continuo gentium, quod autem gentium, idem civile esse debet. Sed nos veri iuris germanaeque iustitiae solidam et expressam effigiem nullam tenemus, umbra et imaginibus utimur. Eas ipsas utinam sequeremur! feruntur enim ex optimis naturae

2 teneri *Heine contra codd.* || 7 plagas *vulgo contra codd.* || *verba* domum propter vitia vendas *seclusi cum Ba Heine Mu auctore Ungero*

et veritatis exemplis. 70. Nam quanti verba illa: VTI NE PROPTER TE FIDEMVE TVAM CAPTVS FRAVDATVSVE SIM! quam illa aurea: VT INTER BONOS BENE AGIER OPORTET ET SINE FRAVDATIONE! Sed qui sint 'boni' et quid sit 'bene agi' magna quaestio est. Q. quidem Scaevola, pontifex maximus, summam vim esse dicebat in omnibus eis arbitriis, in quibus adderetur EX FIDE BONA, fideique bonae nomen existimabat manare latissime, idque versari in tutelis societatibus, fiduciis mandatis, rebus emptis venditis, conductis locatis, quibus vitae societas contineretur: in eis magni esse iudicis statuere, praesertim cum in plerisque essent iudicia contraria, quid quemque cuique praestare oporteret. 71. Quocirca astutiae tollendae sunt eaque malitia, quae volt illa quidem videri se esse prudentiam, sed abest ab ea distatque plurimum. Prudentia est enim locata in dilectu bonorum et malorum, malitia, si omnia, quae turpia sunt, mala sunt, mala bonis ponit ante. Nec vero in praediis solum ius civile ductum a natura malitiam fraudemque vindicat, sed etiam in mancipiorum venditione venditoris fraus omnis excluditur. Qui enim scire debuit de sanitate, de fuga, de furtis, praestat edicto aedilium. Heredum alia causa est.

DEDUCTION.—*It is a Law of Nature, that we are not to take advantage of another man's ignorance. There is no greater source of mischief than Craft which wears the mask of Wisdom.*

72. Ex quo intellegitur, quoniam iuris natura fons sit, hoc secundum naturam esse, neminem id agere ut ex alterius praedetur inscitia. Nec ulla pernicies vitae maior inveniri potest quam in malitia simulatio intellegentiae, ex quo ista

3 et *suadente Orellio extra formulam posuit St* || 15 delectu *Or*, dilectu *Ba;* '*aut* in delectu bonorum *aut* in dilectu bonorum et malorum *dicendum esse apparet.*' *St*

innumerabilia nascuntur, ut utilia cum honestis pugnare videantur. Quotus enim quisque reperietur, qui inpunitate et ignoratione omnium proposita abstinere possit iniuria?

The worst cases of crime do not fall within the scope of a Treatise on Morals: which deals with the actions of respectable Men, i.e. *men who pass in society for such.*

One cause of Immorality is the Desire of Money.

A good man will not imitate such conduct as that of M. Crassus and Q. Hortensius about the will of L. Minucius Basilus.

XVIII 73. Periclitemur, si placet, et in eis quidem exemplis, in quibus peccari volgus hominum fortasse non putet. Neque enim de sicariis veneficis, testamentariis furibus peculatoribus hoc loco disserendum est, qui non verbis sunt et disputatione philosophorum sed vinclis et carcere fatigandi, sed haec consideremus, quae faciunt ei qui habentur boni. L. Minuci Basili, locupletis hominis, falsum testamentum quidam e Graecia Romam attulerunt. Quod quo facilius obtinerent, scripserunt heredes secum M. Crassum et Q. Hortensium, homines eiusdem aetatis potentissimos: qui cum illud falsum esse suspicarentur, sibi autem nullius essent conscii culpae, alieni facinoris munusculum non repudiaverunt. Quid ergo? satin est hoc, ut non deliquisse videantur? Mihi quidem non videtur, quamquam alterum vivum amavi, alterum non odi mortuum. 74. Sed cum Basilus M. Satrium sororis filium nomen suum ferre voluisset eumque fecisset heredem— hunc dico patronum agri Piceni et Sabini, o turpem notam temporum!—, non erat aequum principes civis rem habere, ad Satrium nihil praeter nomen pervenire.

21 o turpem notam temporum nomen illorum *codd.; verba* nomen illorum *del. Heine Mu post Victorium* || 22 non *ex codd. Ba St,* num *Or Be*

This was more unjust than the mere allowing a wrong, when you can prevent it. No plea of expediency can ever justify intrigues for supplanting the rightful heir.

Etenim, si is, qui non defendit iniuriam neque propulsat, cum potest, iniuste facit, ut in primo libro disserui, qualis habendus est is, qui non modo non repellit, sed etiam adiuvat iniuriam? Mihi quidem etiam verae hereditates non honestae videntur, si sunt malitiosis blanditiis, officiorum non veritate, sed simulatione quaesitae. Atqui in talibus rebus aliud utile interdum, aliud honestum videri solet. 75. Falso; nam eadem utilitatis quae honestatis est regula. Qui hoc non perviderit, ab hoc nulla fraus aberit, nullum facinus. Sic enim cogitans: 'est istuc quidem honestum, verum hoc expedit,' res a natura copulatas audebit errore divellere, qui fons est fraudium, maleficiorum, scelerum omnium.

Character of a truly good man. He will not choose to take advantage of opportunities of Fraud and Concealment: he will never separate Justice and Expediency, nor entertain a thought which he would not dare to speak openly. Nature forbids the union of Expediency and Wrong, as much as it does that of Right and Wrong.

XIX Itaque, si vir bonus habeat hanc vim, ut, si digitis concrepuerit, possit in locupletium testamenta nomen eius inrepere, hac vi non utatur, ne si exploratum quidem habeat id omnino neminem umquam suspicaturum. At dares hanc vim M. Crasso, ut digitorum percussione heres posset scriptus esse, qui re vera non esset heres, in foro, mihi crede, saltaret. Homo autem iustus isque, quem sentimus virum bonum, nihil cuiquam, quod in se transferat, detrahet. Hoc qui admiratur, is se quid sit vir bonus nescire fateatur.

1 propulsat a suis *St cum codd.*, a suis *om. Or Ba Heine Mu cum uno cod. Bern. d*, a quovis *legit Alanus*

76. At vero, si qui voluerit animi sui complicatam notionem evolvere, iam se ipse doceat eum virum bonum esse, qui prosit quibus possit, noceat nemini nisi lacessitus iniuria. Quid ergo? hic non noceat, qui quodam quasi veneno perficiat, ut veros heredes moveat, in eorum locum ipse succedat? 'Non igitur faciat' dixerit quis 'quod utile sit, quod expediat?' Immo intellegat nihil nec expedire nec utile esse, quod sit iniustum. Hoc qui non didicerit, bonus vir esse non poterit. 77. C. Fimbriam consularem audiebam de patre nostro puer iudicem M. Lutatio Pinthiae fuisse, equiti Romano sane honesto, cum is sponsionem fecisset NI VIR BONVS ESSET. Itaque ei dixisse Fimbriam se illam rem numquam iudicaturum, ne aut spoliaret fama probatum hominem, si contra iudicavisset, aut statuisse videretur virum bonum esse aliquem, cum ea res innumerabilibus officiis et laudibus contineretur. Huic igitur viro bono, quem Fimbria etiam, non modo Socrates noverat, nullo modo videri potest quicquam esse utile, quod non honestum sit. Itaque talis vir non modo facere, sed ne cogitare quidem quicquam audebit, quod non audeat praedicare. Haec non turpe est dubitare philosophos, quae ne rustici quidem dubitent? a quibus natum est id quod iam contritum est vetustate proverbium: cum enim fidem alicuius bonitatemque laudant, 'dignum esse' dicunt 'quicum in tenebris mices.' Hoc quam habet vim nisi illam, nihil expedire quod non deceat, etiam si id possis nullo refellente obtinere? 78. Videsne hoc proverbio neque Gygi illi posse veniam dari neque huic, quem paulo ante fingebam digitorum percussione hereditates omnium posse converrere! Ut enim, quod turpe est, id, quamvis occultetur, tamen honestum fieri nullo modo potest, sic, quod honestum non est, id utile ut sit effici non potest adversante et repugnante natura.

The magnitude of the advantages, whether Rank or Power, to be derived from a wrong action is no excuse for its commission. Conduct of Marius.

XX 79. At enim, cum permagna praemia sunt, est causa peccandi. C. Marius cum a spe consulatus longe abesset et iam septimum annum post praeturam iaceret neque petiturus umquam consulatum videretur, Q. Metellum, cuius legatus erat, summum virum et civem, cum ab eo, imperatore suo, Romam missus esset, apud populum Romanum criminatus est 'bellum illum ducere: si se consulem fecissent, brevi tempore aut vivum aut mortuum Iugurtham se in potestatem populi Romani redacturum.' Itaque factus est ille quidem consul, sed a fide iustitiaque discessit, qui optimum et gravissimum civem, cuius legatus et a quo missus esset, in invidiam falso crimine adduxerit.

Conduct of Gratidianus.

80. Ne noster quidem Gratidianus officio boni viri functus est tum, cum praetor esset collegiumque praetorum tribuni plebi adhibuissent, ut res numaria de communi sententia constitueretur; iactabatur enim temporibus illis nummus sic, ut nemo posset scire quid haberet. Conscripserunt communiter edictum cum poena atque iudicio constitueruntque, ut omnes simul in rostra post meridiem escenderent. Et ceteri quidem alius alio, Marius ab subselliis in rostra recta idque, quod communiter compositum fuerat, solus edixit. Et ea res, si quaeris, ei magno honori fuit. Omnibus vicis statuae, ad eas tus, cerei. Quid multa? nemo umquam multitudini fuit carior. 81. Haec sunt quae conturbent in deliberatione non numquam, cum id, in quo violatur aequitas, non ita magnum, illud autem, quod ex eo paritur, permagnum videtur, ut Mario praeripere collegis et tribunis plebi popularem gratiam non ita turpe,

consulem ob eam rem fieri, quod sibi tum proposuerat, valde utile videbatur.

Rule for our guidance in such cases. A man loses more by doing an immoral action than he can ever gain by it, be the reward what it may.

Sed omnium una regula est, quam tibi cupio esse notissimam: aut illud, quod utile videtur, turpe ne sit, aut, si turpe est, ne videatur esse utile. Quid igitur? possumusne aut illum Marium virum bonum iudicare aut hunc? Explica atque excute intellegentiam tuam, ut videas quae sit in ea [species] forma et notio viri boni. Cadit ergo in virum bonum mentiri emolumenti sui causa, criminari, praeripere, fallere? Nihil profecto minus.

The character of goodness and integrity is worth all other things.

82. Est ergo ulla res tanti aut commodum ullum tam expetendum, ut viri boni et splendorem et nomen amittas? Quid est quod adferre tantum utilitas ista, quae dicitur, possit, quantum auferre, si boni viri nomen eripuerit, fidem iustitiamque detraxerit? Quid enim interest utrum ex homine se convertat quis in beluam an hominis figura inmanitatem gerat beluae?

The real disadvantages to a man himself as well as to others of Power acquired by unjustifiable means shewn in the instance of Iulius Caesar.

XXI Quid? qui omnia recta et honesta neglegunt, dum modo potentiam consequantur, nonne idem faciunt quod is, qui etiam socerum habere voluit eum, cuius ipse audacia potens esset? Utile ei videbatur plurimum posse alterius invidia. Id quam iniustum in patriam et quam turpe [et quam inutile] esset non videbat.

8 *aut* species *aut* forma *eiciendum esse docuit Madvig Opusc. Acad. I p.* 337, forma *secluserunt Ba Lu,* species *Klotz Mu* ‖ 22 *verba* et

The principle enunciated in the lines of Euripides is immoral.

Ipse autem socer in ore semper Graecos versus de Phoenissis habebat, quos dicam ut potero, incondite fortasse, sed tamen ut res possit intellegi:

Nam si violandum est iūs, regnandi grátia
violándum est: aliis rḗbus pietatḗm colas.

Capitalis [Eteocles vel potius Euripides], qui id unum, quod omnium sceleratissimum fuerit, exceperit! 83. Quid igitur minuta colligimus, hereditates, mercaturas, venditiones fraudulentas? Ecce tibi, qui rex populi Romani dominusque omnium gentium esse concupiverit idque perfecerit! Hanc cupiditatem si honestam quis esse dicit, amens est: probat enim legum et libertatis interitum earumque oppressionem taetram et detestabilem gloriosam putat. Quì autem fatetur honestum non esse in ea civitate, quae libera fuerit quaeque esse debeat, règnare, sed ei, qui id facere possit, esse utile, qua hunc obiurgatione aut quo potius convicio a tanto errore coner avellere? Potest enim, dii immortales! cuiquam esse utile foedissimum et taeterrimum parricidium patriae, quamvis is, qui se eo obstrinxerit, ab oppressis civibus Parens nominetur?

Rectitude is the only true measure and standard of Expediency.

Honestatè igitur dirigenda utilitas est et quidem sic, ut haec duo verbo inter se discrepare, re unum sonare

quam inutile *omissa in optimis codd. secluserunt Ba Heine, omisit St qui adnotat 'Sententia loci omissis illis verbis gravior multo fit, cum ex eo ipso quod* iniustum *et* turpe *est, eluceat etiam* inutile *esse etiamsi non ipsis verbis dicatur. Nam si cum vi quadam Cicero addere voluisset* et quam inutile, *non* quam iniustum *sed* et quam iniustum *dixisset'; omisit et Mu* || 6 Euripides vel potius Eteocles *Pearcius et Gesnerus:* capitalis Eteocles [vel potius Euripides] *Porsonus; totum* Eteocles vel potius Euripides *glossatori tribuunt Ba Müller*

videantur. 84. Non habeo, ad volgi opinionem quae maior utilitas quam regnandi esse possit; nihil contra inutilius ei, qui id iniuste consecutus sit, invenio, cum ad veritatem coepi revocare rationem.

The unhappiness of a tyrant's life.

Possunt enim cuiquam esse utiles angores, sollicitudines, diurni et nocturni metus, vita insidiarum periculorumque plenissima?

Múlti iniqui atque ínfideles régno, pauci bénevoli

inquit Accius. At cui regno? quod a Tantalo et Pelope proditum iure optinebatur. Nam quanto plures ei regi putas, qui exercitu populi Romani populum ipsum Romanum oppressisset civitatemque non modo liberam, sed etiam gentibus imperantem servire sibi coëgisset? 85. Hunc tu quas conscientiae labes in animo censes habuisse, quae vulnera? Cuius autem vita ipsi potest utilis esse, cum eius vitae ea conditio sit, ut qui illam eripuerit in maxima et gratia futurus sit et gloria? Quod si haec utilia non sunt, quae maxime videntur, quia plena sunt dedecoris ac turpitudinis, satis persuasum esse debet nihil esse utile, quod non honestum sit.

Several instances of apparent inconsistency between Rectitude and Expediency:—

1. *Case of Fabricius in the matter of the deserter from the camp of Pyrrhus.*

XXII 86. Quamquam id quidem cum saepe alias tum Pyrrhi bello a C. Fabricio consule iterum et a senatu nostro iudicatum est. Cum enim rex Pyrrhus populo Romano bellum ultro intulisset, cumque de imperio certamen esset cum rege generoso ac potenti, perfuga ab eo venit in castra

8 pauci benevoli *Ba Heine St e cod. Bern. c; vulgo* sunt boni

Fabricii eique est pollicitus, si praemium sibi proposuisset, se, ut clam venisset, sic clam in Pyrrhi castra rediturum et eum veneno necaturum. Hunc Fabricius reducendum curavit ad Pyrrhum idque eius factum laudatum a senatu est. Atqui, si speciem utilitatis opinionemque quaerimus, magnum illud bellum perfuga unus et gravem adversarium imperi sustulisset, sed magnum dedecus et flagitium, quicum laudis certamen fuisset, eum non virtute sed scelere superatum. 87. Utrum igitur utilius vel Fabricio, qui talis in hac urbe qualis Aristides Athenis fuit, vel senatui nostro, qui numquam utilitatem a dignitate seiunxit, armis cum hoste certare an venenis? Si gloriae causa imperium expetendum est, scelus absit, in quo non potest esse gloria: sin ipsae opes expetuntur quoquo modo, non poterunt utiles esse cum infamia.

II. *Case of L. Philippus in the matter of the towns enfranchised by Sulla.*

Non igitur utilis illa L. Philippi Q. f. sententia: quas civitates L. Sulla pecunia accepta ex senatus consulto liberavisset, ut eae rursus vectigales essent neque eis pecuniam, quam pro libertate dederant, redderemus. Ei senatus est assensus. Turpe imperio! piratarum enim melior fides quam senatus. 'At aucta vectigalia, utile igitur.' Quousque audebunt dicere quicquam utile, quod non honestum? 88. Potest autem ulli imperio, quod gloria debet fultum esse et benevolentia sociorum, utile esse odium et infamia?

III. *Case of Cato in the matter of the farmers of the public revenue.*

Ego etiam cum Catone meo saepe dissensi. Nimis mihi praefracte videbatur aerarium vectigaliaque defendere, omnia publicanis negare, multa sociis, cum in hos benefici esse deberemus, cum illis sic agere, ut cum colonis nostris

2 *alterum* clam *del. Cobetus Ba*

soleremus, eoque magis, quod illa ordinum coniunctio ad salutem rei publicae pertinebat.

IV. *Case of Curio in the matter of the Transpadani.*

Male etiam Curio, cum causam Transpadanorum aequam esse dicebat, semper autem addebat 'Vincat utilitas!' Potius doceret non esse aequam, quia non esset utilis rei publicae, quam cum utilem non esse diceret, esse aequam fateretur.

Several similar practical Cases of conscience put and resolved by Hecato. Rule of action in such cases has been already laid down.

XXIII 89. Plenus est sextus liber de officiis Hecatonis talium quaestionum: 'sitne boni viri in maxima caritate annonae familiam non alere.' In utramque partem disputat, sed tamen ad extremum utilitate, ut putat, officium dirigit magis quam humanitate. Quaerit, 'si in mari iactura facienda sit, equine pretiosi potius iacturam faciat an servoli vilis?' Hic alio res familiaris, alio ducit humanitas.—'Si tabulam de naufragio stultus arripuerit, extorquebitne eam sapiens, si potuerit?' Negat, 'quia sit iniurium.'—'Quid dominus navis? eripietne suum?' 'Minime, non plus quam navigantem in alto eicere de navi velit, quia sua sit. Quoad enim perventum est eo, quo sumpta navis est, non domini est navis sed navigantium.' 90. 'Quid? si una tabula sit, duo naufragi eique sapientes, sibine uterque rapiat an alter cedat alteri?' 'Cedat vero, sed ei cuius magis intersit vel sua vel rei publicae causa vivere.'—'Quid? si haec paria in utroque?' 'Nullum erit certamen, sed quasi sorte aut micando victus alteri cedet alter.'—'Quid? si pater fana

1 solemus *Or contra codd.* || 4 vincat utilitas reipublicae *Or St e Bern. c* || 6 doceret *Ba Heine Lu cum aliquot codd.*, diceret *Or Z* || 11 ut putat *om Or* || 21 sibi neuter *Z St cum opt. codd.* sibine uterque *Ba Heine Mu cum Victorio*, sibine uter *Or fortasse recte*

expilet, cuniculos agat ad aerarium, indicetne id magistratibus filius?' 'Nefas id quidem est: quin etiam defendat patrem, si arguatur.' 'Non igitur patria praestat omnibus officiis?' 'Immo vero, sed ipsi patriae conducit pios habere cives in parentes.'—'Quid? si tyrannidem occupare, si patriam prodere conabitur pater, silebitne filius?' 'Immo vero obsecrabit patrem, ne id faciat. Si nihil proficiet, accusabit, minabitur etiam, ad extremum, si ad perniciem patriae res spectabit, patriae salutem anteponet saluti patris.' 91. Quaerit etiam, 'si sapiens adulterinos numos acceperit imprudens pro bonis, cum id rescierit, soluturusne sit eos, si cui debeat, pro bonis.' Diogenes ait, Antipater negat, cui potius assentior.—'Qui vinum fugiens vendat sciens, debeatne dicere?' 'Non necesse' putat Diogenes, Antipater 'viri boni' existimat. Haec sunt quasi controversa iura Stoicorum. 'In mancipio vendundo dicendane vitia, non ea, quae nisi dixeris, redhibeatur mancipium iure civili, sed haec, mendacem esse, aleatorem, furacem, ebriosum.' Alteri dicenda videntur, alteri non videntur. 92. 'Si quis aurum vendens orichalcum se putet vendere, indicetne ei vir bonus aurum illud esse, an emat denario quod sit mille denarium.' Perspicuum est iam et quid mihi videatur et quae sit inter eos philosophos, quos nominavi, controversia.

Whether Promises and Bargains, not extorted by force or fraud, in all cases bind men to performance.

XXIV Pacta et promissa semperne servanda sint, QVAE NEC VI NEC DOLO MALO, ut praetores solent, FACTA SINT.—Si quis medicamentum cuipiam dederit ad aquam intercutem pepigeritque, si eo medicamento sanus factus esset, ne illo

2 nefas id quidem *omisso* est *Or* || 13 venenum fugiens *cum plerisque codd. St post Lambinum*

medicamento umquam postea uteretur, si eo medicamento sanus factus sit et annis aliquot post inciderit in eundem morbum nec ab eo, quicum pepigerat, impetret ut iterum eo liceat uti, quid faciendum sit. Cum sit is inhumanus, qui non concedat, nec ei quicquam fiat iniuriae, vitae et saluti consulendum.— 93. Quid? si qui sapiens rogatus sit ab eo, qui eum heredem faciat, cum ei testamento sestertium miliens relinquatur, ut ante quam hereditatem adeat, luce palam in foro saltet, idque se facturum promiserit, quod aliter heredem eum scripturus ille non esset, faciat quod promiserit necne? Promisisse nollem et id arbitror fuisse gravitatis: quoniam promisit, si saltare in foro turpe ducet, honestius mentietur, si ex hereditate nihil ceperit quam si ceperit, nisi forte eam pecuniam in rei publicae magnum aliquod tempus contulerit, ut vel saltare, cum
XXV patriae consulturus sit, turpe non sit. 94. Ac ne illa quidem promissa servanda sunt, quae non sunt eis ipsis utilia, quibus illa promiseris.

Several Cases besides stated, wherein a Man is not obliged to carry out his engagements and fulfil his Vows,

Sol Phaëthonti filio, ut redeamus ad fabulas, facturum se esse dixit quidquid optasset. Optavit ut in currum patris tolleretur: sublatus est: atque is, ante quam constitit, ictu fulminis deflagravit. Quanto melius fuerat in hoc promissum patris non esse servatum! Quid? quod Theseus exegit promissum a Neptuno? Cui cum tres optationes Neptunus dedisset, optavit interitum Hippolyti fili, cum is patri suspectus esset de noverca; quo optato impetrato Theseus in maximis fuit luctibus. 95. Quid?

3 item tum *St ex Bern. c* ‖ 11 promisisset *Ba Heine*, promisisse *codd.* ‖ 24 *verba* cui cum—fuit luctibus *spuria esse intellexit Valckenaer ad Eur. Hipp.* v. 887; *totum locum ut emblema seclusit Ba* ‖ 26 quo optatu impetrato *St e Bern. c*

Agamemnon cum devovisset Dianae quod in suo regno pulcherrimum natum esset illo anno, immolavit Iphigeniam, qua nihil erat eo quidem anno natum pulcrius. Promissum potius non faciendum quam tam taetrum facinus admittendum fuit.

nor to give up a thing committed to his Trust.

Ergo et promissa non facienda non numquam neque semper deposita reddenda. Si gladium quis apud te sana mente deposuerit, repetat insaniens, reddere peccatum sit, officium non reddere. Quid? si is, qui apud te pecuniam deposuerit, bellum inferat patriae, reddasne depositum? Non, credo; facies enim contra rem publicam, quae debet esse carissima.

By these Examples it appears that actions in themselves right, may cease to be so when the circumstances are altered.

96. Sic multa, quae honesta natura videntur esse, temporibus fiunt non honesta. Facere promissa, stare conventis, reddere deposita commutata utilitate fiunt non honesta. Ac de eis quidem, quae videntur esse utilitates contra iustitiam simulatione prudentiae, satis arbitror dictum.

Sed quoniam a quattuor fontibus honestatis primo libro officia duximus, in eisdem versemur, cum docebimus ea, quae videantur esse utilia neque sint, quam sint virtutis inimica. Ac de prudentia quidem, quam vult imitari malitia, itemque de iustitia, quae semper est utilis, disputatum est. Reliquae sunt duae partes honestatis, quarum altera in animi excellentis magnitudine et praestantia cernitur, altera in conformatione et moderatione continentiae et temperantiae.

19 versabimur *Bei Al Or*, versemur *codd.* ‖ 20 videntur *Or* ‖ 21 ac de prudentia—et temperantiae *ut spuria seclusit Ba auctore Facciolato*

B. ***Where false Expediency comes into conflict with Courage.***

CH. XXVI—XXXII. *That nothing can be expedient which is contrary to the virtue of Fortitude, shown from the examples of Ulysses,*

XXVI 97. Utile videbatur Ulixi, ut quidem poëtae tragici prodiderunt—nam apud Homerum optumum auctorem talis de Ulixe nulla suspitio est—, sed insimulant eum tragoediae simulatione insaniae militiam supterfugere voluisse. Non honestum consilium, at utile, ut aliquis fortasse dixerit, regnare et Ithacae vivere otiose cum parentibus, cum uxore, cum filio. Ullum tu decus in cotidianis laboribus et periculis cum hac tranquillitate conferendum putas? Ego vero istam contemnendam et abiciendam, quoniam quae honesta non sit ne utilem quidem esse arbitror. 98. Quid enim auditurum putas fuisse Ulixem, si in illa simulatione perseveravisset? qui cum maximas res gesserit in bello, tamen haec audiat ab Aiace:

Cuius ípse princeps iúris iurandí fuit,
quod ómnes scitis, sólus neglexít fidem.
furere ádsimulare, né coiret, ínstitit.
quod ní Palamedi pérspicax prudéntia
istíus perspexet málitiosam audáciam,
fidé sacratae iús perpetuo fálleret.

99. Illi vero non modo cum hostibus, verum etiam cum fluctibus, id quod fecit, dimicare melius fuit quam deserere consentientem Graeciam ad bellum barbaris inferendum.

and of Regulus, who held himself bound to keep his word even at the peril of his life, CH. XXVI—XXXII.

Sed omittamus et fabulas et externa: ad rem factam nostramque veniamus. M. Atilius Regulus, cum consul iterum in Africa ex insidiis captus esset duce Xanthippo Lacedaemonio, imperatore autem patre Hannibalis Hamilcare,

5 *verba* ut aliquis fortasse dixerit *Heumanno et Heusingero iam suspecta secluserunt Ba Heine*

iuratus missus est ad senatum, ut, nisi redditi essent Poenis captivi nobiles quidam, rediret ipse Karthaginem. Is cum Romam venisset, utilitatis speciem videbat, sed eam, ut res declarat, falsam iudicavit: quae erat talis: manere in patria, esse domui suae cum uxore, cum liberis, quam calamitatem accepisset in bello, communem fortunae bellicae iudicantem tenere consularis dignitatis gradum. Quis haec negat esse utilia? Quem censes? Magnitudo animi et
XXVII fortitudo negat. 100. Num locupletiores quaeris auctores? Harum enim est virtutum proprium nihil extimescere, omnia humana despicere, nihil quod homini accidere possit intolerandum putare. Itaque quid fecit? In senatum venit, mandata exposuit, sententiam ne diceret recusavit: quam diu iure iurando hostium teneretur, non esse se senatorem. Atque illud etiam—'o stultum hominem' dixerit quispiam 'et repugnantem utilitati suae!'—reddi captivos negavit esse utile: illos enim adulescentes esse et bonos duces, se iam confectum senectute. Cuius cum valuisset auctoritas, captivi retenti sunt, ipse Karthaginem rediit neque eum caritas patriae retinuit nec suorum. Neque vero tum ignorabat se ad crudelissimum hostem et ad exquisita supplicia proficisci, sed ius iurandum conservandum putabat. Itaque tum, cum vigilando necabatur, erat in meliore causa quam si domi senex captivus, periurus consularis remansisset.

Objection i brought against the conduct of Regulus:—*He was foolish to advise his countrymen against his own interest.*

Answer i. *Not if his advice was for the public good. For to separate Profit from moral Good is to do violence to the first and essential principles of Nature.*

101. 'At stulte, qui non modo non censuerit captivos remittendos, verum etiam dissuaserit.' Quo modo stulte? etiamne, si rei publicae conducebat? potest autem, quod inutile rei publicae sit, id cuiquam civi utile esse?

XXVIII Pervertunt homines ea, quae sunt fundamenta naturae, cum utilitatem ab honestate seiungunt. Omnes enim expetimus utilitatem ad eamque rapimur nec facere aliter ullo modo possumus. Nam quis est qui utilia fugiat, aut quis potius qui ea non studiosissime persequatur? Sed quia nusquam possumus nisi in laude, decore, honestate utilia reperire, propterea illa prima et summa habemus, utilitatis nomen non tam splendidum quam necessarium ducimus.

Objection ii. *There is nothing in an Oath that we should fear to break it. For* (a) *the gods are never angry and do not hurt us.*

(b) *Even supposing Jupiter, the avenger of perjury, had been angry, he could not have inflicted upon him greater evil than what Regulus brought upon himself by returning.*

(c) *He ought to have chosen the least of evils.*

(d) *Men are not obliged to keep their oaths to Deceivers.*

(e) *Promises extorted by force need not be kept.*

Objection iii. *He was foolish to undertake the mission at all.*

Objection iv. *Great expediency makes right.*

102. 'Quid est igitur' dixerit quis 'in iure iurando? num iratum timemus Iovem? At hoc quidem commune est omnium philosophorum, non eorum modo, qui deum nihil habere ipsum negoti dicunt, nihil exhibere alteri, sed eorum etiam, qui deum semper agere aliquid et moliri volunt, numquam nec irasci deum nec nocere. Quid autem iratus Iuppiter plus nocere potuisset quam nocuit sibi ipse Regulus? nulla igitur vis fuit religionis, quae tantam utilitatem perverteret. An ne turpiter faceret? Primum "minima de malis." Num igitur tantum mali turpitudo ista habebat, quantum ille cruciatus? Deinde illud etiam apud Accium:

Fregistin fidem?
neque dedi neque do infideli cuiquam...

quamquam ab impio rege dicitur, luculente tamen dicitur.'

17 praeverteret *Or, Al Gruber contr. codd.* || 19 habebit *alii cum codd.*

103. Addunt etiam, quemadmodum nos dicamus videri quaedam utilia quae non sint, sic se dicere videri quaedam honesta quae non sint: 'ut hoc ipsum videtur honestum conservandi iuris iurandi causa ad cruciatum revertisse, sed fit non honestum, quia, quod per vim hostium esset actum, ratum esse non debuit.' Addunt etiam, quidquid valde utile sit, id fieri honestum, etiam si antea non videretur. Haec fere contra Regulum. Sed prima videamus.

Answers to the Objections. ii. *An Oath is* (a) *a sacred obligation, the performance of which is a matter of Justice and Honour, without regard to consequences.*

XXIX 104. 'Non fuit Iuppiter metuendus ne iratus noceret, qui neque irasci solet nec nocere.' Haec quidem ratio non magis contra Reguli quam contra omne ius iurandum valet. Sed in iure iurando non qui metus sed quae vis sit debet intellegi. Est enim ius iurandum adfirmatio religiosa: quod autem adfirmate quasi deo teste promiseris, id tenendum est. Iam enim non ad iram deorum, quae nulla est, sed ad iustitiam et ad fidem pertinet. Nam praeclare Ennius:

Ó Fides alma ápta pinnis ét iús iurandúm Iovis!

Qui ius igitur iurandum violat, is Fidem violat, quam in Capitolio 'vicinam Iovis optimi maximi,' ut in Catonis oratione est, maiores nostri esse voluerunt.

(b) *Pain, if an evil at all, is not the chief evil.*

105. 'At enim ne iratus quidem Iuppiter plus Regulo nocuisset quam sibi nocuit ipse Regulus.' Certe, si nihil malum esset nisi dolere. Id autem non modo [non] summum malum sed ne malum quidem esse maxima auctoritate

6 non debuit. *Post haec sextam adversariorum contra Regulum rationem* (cur igitur ad senatum proficiscebatur, cum praesertim de captivis dissuasurus esset?) *excidisse censet Unger coll.* § 110.

philosophi adfirmant. Quorum quidem testem non mediocrem, sed haud scio an gravissimum Regulum nolite, quaeso, vituperare. Quem enim locupletiorem quaerimus quam principem populi Romani, qui retinendi offici causa cruciatum subierit voluntarium?

(c) *Certainly no evil can be greater than Dishonour.*

Nam quod aiunt 'minima de malis,' id est, ut turpiter potius quam calamitose: an est ullum maius malum turpitudine? quae si in deformitate corporis habet aliquid offensionis, quanta illa depravatio et foeditas turpificati animi debet videri! 106. Itaque nervosius qui ista disserunt, solum audent malum dicere id, quod turpe sit; qui autem remissius, ei tamen non dubitant summum malum dicere.

(d) *The Maxim that Faith is not to be kept with deceivers is a mere cover for perjury. Oaths made to an Enemy must be observed, except in the case of Pirates, who are the common enemies of all men alike. The correct idea of Perjury expressed by Euripides.*

Nam illud quidem:

Néque dedi neque do infideli cuiquam,

idcirco recte a poeta, quia, cum tractaretur Atreus, personae serviendum fuit. Sed si hoc sibi sument, nullam esse fidem quae infideli data sit, videant ne quaeratur latebra periurio. 107. Est autem ius etiam bellicum fidesque iuris iurandi saepe cum hoste servanda. Quod enim ita iuratum est, ut mens conciperet fieri oportere, id servandum est: quod aliter, id si non fecerit, nullum est periurium. Ut si praedonibus pactum pro capite pretium non attuleris, nulla fraus sit, ne si iuratus quidem id non feceris. Nam pirata

19 autem *om. Or contra codd.*, *totum locum* Est autem—servanda *seclusit Ba Mu*[1] || 22 id si non fecerit *uncis seclusit Fleckeisen*, feceris *Or contra codd.*

non est ex perduellium numero definitus, sed communis hostis omnium. Cum hoc nec fides debet nec ius iurandum esse commune. 108. Non enim falsum iurare periurare est, sed, quod EX ANIMI TVI SENTENTIA iuraris, sicut verbis concipitur more nostro, id non facere periurium est. Scite enim Euripides:

Iurávi lingua, méntem iniuratám gero.

Regulus vero non debuit condiciones pactionesque bellicas et hostiles perturbare periurio. Cum iusto enim et legitimo hoste res gerebatur, adversus quem et totum ius fetiale et multa sunt iura communia.

Were it not so, certain eminent Romans would not have been given up to the enemy because they made disadvantageous treaties, the articles of which were not ratified by the Senate.

Quod ni ita esset, numquam claros viros senatus vinctos
XXX hostibus dedidisset. 109. At vero T. Veturius et Sp. Postumius, cum iterum consules essent, quia, cum male pugnatum apud Caudium esset, legionibus nostris sub iugum missis pacem cum Samnitibus fecerant, dediti sunt eis; iniussu enim populi senatusque fecerant. Eodemque tempore Ti. Numicius, Q. Maelius, qui tum tribuni plebis erant, quod eorum auctoritate pax erat facta, dediti sunt, ut pax Samnitium repudiaretur. Atque huius deditionis ipse Postumius, qui dedebatur, suasor et auctor fuit. Quod idem multis annis post C. Mancinus, qui ut Numantinis, quibuscum sine senatus auctoritate foedus fecerat, dederetur, rogationem suasit eam, quam L. Furius, Sex. Atilius ex senatus consulto ferebant: qua accepta est hostibus deditus. Honestius hic quam Q. Pompeius, quo, cum in eadem

1 [definitus] *Or Lu cum I. M. Heusingero*, ex perduellium numero: definitus est *etc. St* ‖ 8 condictiones *Or Al* ‖ 24 P. Furius *Or cum Oudendorpio*

causa esset, deprecante accepta lex non est. Hic ea, quae videbatur utilitas, plus valuit quam honestas, apud superiores utilitatis species falsa ab honestatis auctoritate superata est.

(e) *A man of courage cannot be forced.*

iii. *The fact of his undertaking the mission is the best proof of his high sense of honour.*

110. 'At non debuit ratum esse, quod erat actum per vim.' Quasi vero forti viro vis possit adhiberi. 'Cur igitur ad senatum proficiscebatur, cum praesertim de captivis dissuasurus esset?' Quod maximum in eo est, id reprehenditis. Non enim suo iudicio stetit, sed suscepit causam, ut esset iudicium senatus: cui nisi ipse auctor fuisset, captivi profecto Poenis redditi essent; ita incolumis in patria Regulus restitisset. Quod quia patriae non utile putavit, idcirco sibi honestum et sentire illa et pati credidit.

iv. *A thing cannot be made honourable by being expedient, if otherwise dishonourable.*

Nam quod aiunt, quod valde utile sit, id fieri honestum, immo vero esse, non fieri. Est enim nihil utile quod idem non honestum, nec, quia utile, honestum, sed quia honestum, utile. Qua re ex multis mirabilibus exemplis haud facile quis dixerit hoc exemplo aut laudabilius aut praestantius.

The return of Regulus was not so remarkable in an age which regarded an Oath as the strictest possible obligation; as is proved by the Laws of the XII Tables, the sacratae, *treaties etc., and by the particular example of M. Pomponius,*

XXXI 111. Sed ex tota hac laude Reguli unum illud est admiratione dignum, quod captivos retinendos censuit. Nam quod rediit nobis nunc mirabile videtur, illis quidem temporibus aliter facere non potuit. Itaque ista laus non

est hominis, sed temporum. Nullum enim vinculum ad astringendam fidem iure iurando maiores artius esse voluerunt. Id indicant leges in duodecim tabulis, indicant sacratae, indicant foedera, quibus etiam cum hoste devincitur fides, indicant notiones animadversionesque censorum, qui nulla de re diligentius quam de iure iurando iudicabant. 112. L. Manlio A. f. cum dictator fuisset, M. Pomponius tribunus plebis diem dixit, quod is paucos sibi dies ad dictaturam gerendam addidisset; criminabatur etiam, quod Titum filium, qui postea est Torquatus appellatus, ab hominibus relegasset et ruri habitare iussisset. Quod cum audivisset adulescens filius negotium exhiberi patri, accurrisse Romam et cum primo luci Pomponi domum venisse dicitur. Cui cum esset nuntiatum, qui illum iratum allaturum ad se aliquid contra patrem arbitraretur, surrexit e lectulo remotisque arbitris ad se adulescentem iussit venire. At ille, ut ingressus est, confestim gladium destrinxit iuravitque se illum statim interfecturum, nisi ius iurandum sibi dedisset se patrem missum esse facturum. Iuravit hoc terrore coactus Pomponius; rem ad populum detulit, docuit cur sibi causa desistere necesse esset, Manlium missum fecit. Tantum temporibus illis ius iurandum valebat. Atque hic T. Manlius is est, qui ad Anienem Galli, quem ab eo provocatus occiderat, torque detracto cognomen invenit, cuius tertio consulatu Latini ad Veserim fusi et fugati, magnus vir in primis et, qui perindulgens in patrem, idem acerbe severus in filium.

and by that of ten Romans sent upon their parole by Hannibal to Rome after the battle of Cannae.

:XXII 113. Sed, ut laudandus Regulus in conservando iure

13 cum primo luci *St Heine Mu Be Or* ‖ 22 Atque hic T. Manlius —in filium *ut emblema seclusit Ba, suspicionem iam moverant Ernestio*

iurando, sic decem illi, quos post Cannensem pugnam iuratos ad senatum misit Hannibal se in castra redituros ea, quorum erant potiti Poeni, nisi de redimendis captivis impetravissent, si non redierunt, vituperandi. De quibus non omnes uno modo: nam Polybius, bonus auctor in primis, ex decem nobilissimis, qui tum erant missi, novem revertisse dicit, re a senatu non impetrata: unum ex decem, qui paullo post quam erat egressus e castris redisset quasi aliquid esset oblitus, Romae remansisse. Reditu enim in castra liberatum se esse iure iurando interpretabatur.

Equivocation does not free from the guilt of perjury, but rather aggravates it.

Non recte; fraus enim astringit, non dissolvit periurium. Fuit igitur stulta calliditas perverse imitata prudentiam. Itaque decrevit senatus ut ille veterator et callidus vinctus ad Hannibalem duceretur.

Another instance, in which disregard to apparent Expediency and regard to the Principles of Honour proved ultimately advantageous.

114. Sed illud maximum: octo hominum milia tenebat Hannibal, non quos in acie cepisset aut qui periculo mortis diffugissent, sed qui relicti in castris fuissent a Paulo et a Varrone consulibus. Eos senatus non censuit redimendos, cum id parva pecunia fieri posset, ut esset insitum militibus nostris aut vincere aut emori. Qua quidem re audita fractum animum Hannibalis scribit idem, quod senatus populusque Romanus rebus adflictis tam excelso animo fuisset. Sic honestatis comparatione ea, quae videntur utilia, vincuntur. 115. C. Acilius autem, qui Graece scripsit

11 distringit *Ba Unger cum plur. codd.* || 15 Sed illud—vincuntur *seclusit Ba auctore I. M. Heusingero, ut exemplum a re proposita alienum* || 16 periculum...defugissent *Mu*^{2} *cum uno codice Bern. c*, periculo... diffugissent *St Ba Heine Lu cum codd.*, periculo...defuissent *em. Alanus*

historiam, plures ait fuisse qui in castra revertissent eadem fraude, ut iure iurando liberarentur, eosque a censoribus omnibus ignominiis notatos. Sit iam huius loci finis.

There can be no real Expediency in mean and cowardly conduct, the reverse of that of Regulus.

Perspicuum est enim ea, quae timido animo, humili, demisso fractoque fiant,—quale fuisset Reguli factum, si aut de captivis quod ipsi opus esse videretur, non quod rei publicae, censuisset aut domi remanere voluisset,—non esse utilia, quia sint flagitiosa, foeda, turpia.

C. *Where false Expediency comes into collision with Temperance.*

This can only be the case on supposition of the Epicurean theory being true, that 'pleasure is the summum bonum, *and virtue so far desirable as it is conducive to this': a doctrine which is proved to be in direct contradiction to the four sources of the* honestum, *viz.,*

XXXIII 116. Restat quarta pars, quae decore, moderatione, modestia, continentia, temperantia continetur. Potest igitur quicquam utile esse, quod sit huic talium virtutum choro contrarium? At qui ab Aristippo Cyrenaici atque Annicerii philosophi nominati omne bonum in voluptate posuerunt virtutemque censuerunt ob eam rem esse laudandam, quod efficiens esset voluptatis (quibus obsoletis floret Epicurus eiusdem fere adiutor auctorque sententiae), cum his 'viris equisque,' ut dicitur, si honestatem tueri ac retinere sententia est, decertandum est. 117. Nam si non modo utilitas, sed vita omnis beata corporis firma constitutione eiusque constitutionis spe explorata, ut a Metrodoro scriptum est, continetur, certe haec utilitas et quidem summa—sic enim censent—cum honestate pugnabit.

14 conlaudandam *Ba Heine*

1. *Wisdom.*

Nam ubi primum prudentiae locus dabitur? an ut conquirat undique suavitates? Quam miser virtutis famulatus servientis voluptati! Quod autem munus prudentiae? an legere intellegenter voluptates? Fac nihil isto esse iucundius, quid cogitari potest turpius?

2. *Courage.*

Iam qui dolorem summum malum iudicat, apud eum quem habet locum fortitudo, quae est dolorum laborumque contemptio? Quamvis enim multis locis dicat Epicurus, sicuti dicit, satis fortiter de dolore, tamen non id spectandum est, quid dicat, sed quid consentaneum sit ei dicere, qui bona voluptate terminaverit, mala dolore. Et, si illum audiam, de continentia et temperantia, dicit ille quidem multa multis locis, sed aqua haeret, ut aiunt.

3. *Temperance.*

Nam qui potest temperantiam laudare is, qui ponat summum bonum in voluptate? Est enim temperantia libidinum inimica, libidines autem consectatrices voluptatis. 118. Atque in his tamen tribus generibus quoquo modo possunt non incallide tergiversantur. Prudentiam introducunt scientiam suppeditantem voluptates, depellentem dolores. Fortitudinem quoque aliquo modo expediunt, cum tradunt rationem neglegendae mortis, perpetiendi doloris. Etiam temperantiam inducunt non facillime illi quidem, sed tamen quoquo modo possunt; dicunt enim voluptatis magnitudinem doloris detractione finiri.

4. *Justice.*

Iustitia vacillat vel iacet potius omnesque eae virtutes,

6 iudicat *Ba Heine Lu post Lambinum*, dicat *Or Mu cum codd.* 11 et *Müller*[2]*;* ut *vulgo*

quae in communitate cernuntur et in societate generis humani. Neque enim bonitas nec liberalitas nec comitas esse potest, non plus quam amicitia, si haec non per se expetantur, sed ad voluptatem utilitatemve referantur. Conferamus igitur in pauca. 119. Nam ut utilitatem nullam esse docuimus quae honestati esset contraria, sic omnem voluptatem dicimus honestati esse contrariam.

Futile theory of Calliphon and Dinomachus.

Quo magis reprehendendos Calliphonem et Dinomachum iudico, qui se dirempturos controversiam putaverunt, si cum honestate voluptatem tamquam cum homine pecudem copulavissent. Non recipit istam coniunctionem honestas, aspernatur, repellit. Nec vero finis bonorum [et malorum], qui simplex esse debet, ex dissimillimis rebus misceri et temperari potest. 120. Sed de hoc—magna enim res est—alio loco pluribus. Nunc ad propositum. Quem ad modum igitur, si quando ea, quae videtur utilitas, honestati repugnat, diiudicanda res sit, satis est supra disputatum. Sin autem speciem utilitatis etiam voluptas habere dicetur, nulla potest esse ei cum honestate coniunctio. Nam, ut tribuamus aliquid voluptati, condimenti fortasse nonnihil, utilitatis certe nihil habebit.

Conclusion.

121. Habes a patre munus, Marce fili, mea quidem sententia magnum, sed perinde erit, ut acceperis. Quamquam hi tibi tres libri inter Cratippi commentarios tamquam hospites erunt recipiendi: sed ut, si ipse venissem Athenas,

12 *verba* et malorum *delet Muretus var. lect.* XIV. 3, *secluserunt Ba Heine delet Lu cum duobus codd.* || 18 dicitur *Heine* || 24 et hi *St post Lambinum ex aliquot optimis codd.* '*cum maxima enim urbanitate* et *interpositum est. Intellegendum enim* et ceteri et hi. *Si abesset* et, *contraria sententia evaderet* hi, non ceteri, *quod perversum est.*'

quod quidem esset factum, nisi me e medio cursu clara voce patria revocasset, aliquando me quoque audires, sic, quoniam his voluminibus ad te profecta vox est mea, tribues eis temporis quantum poteris, poteris autem quantum voles. Cum vero intellexero te hoc scientiae genere gaudere, tum et praesens tecum propediem, ut spero, et dum aberis, absens loquar. Vale igitur, mi Cicero, tibique persuade esse te quidem mihi carissimum, sed multo fore cariorem, si talibus monitis praeceptisque laetabere.

9 monitis *Lambinus probantibus Heine Mu, conf.* I § 156, monumentis *Ba Al cum optimis codd.*, monimentis *Or cum Bern. c*

LIBRI TERTII FINIS

NOTES

CHAPTER I

P. 1, § 1, l. 1. P. Scipionem] P. Cornelius Scipio Africanus the elder, born B.C. 234 (circ.), the conqueror of Hannibal at Zama (B.C. 202).

l. 2. scripsit Cato] probably in the collection of *ἀποφθέγματα* mentioned I § 104. Cf. rep. I 27.

l. 3. aequalis] 'contemporary.' Cato was nearly the same age as Scipio. He was his quaestor when he went to Sicily as proconsul B.C. 204, and Scipio was consul B.C. 205, Cato B.C. 195, but Scipio was consul much before his proper age.

otiosum] *Otiosus* signifies 'one who has abundance of *otium*' which itself has two meanings (1) 'freedom from public duties,' (2) 'freedom from occupation generally.' *Otiosum* here has the latter meaning 'unoccupied,' *otiosus* (and plainly *otium*) the former, 'free from public cares.' Cp. I § 70, Tusc. I § 6 *ut si occupati profuimus aliquid civibus nostris, prosimus etiam, si possimus,* otiosi, or. p. Planc. § 66.

l. 5. vox] 'saying,' 'remark,' de am. § 37 *videtis quam nefaria vox.*

l. 6. negotiis] 'public business.'

l. 7. ut neque cessaret umquam] 'so that he was both never unemployed and etc.,' consecutive subj. expressing the result.

neque—et—non] I § 72, Donaldson Gr. p. 194, Madvig Gr. § 458 c.

l. 9. acuebant] 'whetted his energies.' Cp. Xenoph. Oeconom. 21, 3 *ὥστε ἀκονᾶν τὰς ψυχὰς τῶν ἀνθρώπων ἐπὶ τὸ ἐθελοντὰς πονεῖν.*

vellem—liceret] 'I wish it had been allowed,' see II § 87 for this expression of a now impossible wish, Madv. Gr. § 372 b *obs.* 2.

l. 10. vere dicere] § 13 l. 24 *honestum quod proprie vereque dicitur.*

si minus—accedimus] 'if I cannot by imitation attain to that inimitable temper, at any rate, so far as inclination goes, I come as near it as

is possible.' For *consequi*=assequi cp. Quintilian instit. orat. x 1, 109 *quod in quoque optimum fuit, studio consecutus est*, XII 11, 27 *Achillis gloriam in rebus bellicis consequi*, XI 25 *si vitia magnorum consequantur*.

l. 11. tantam ingeni praestantiam] for *tam praestans ingenium*.

l. 12. a re publica cet.] 'from political and forensic employment,' II § 2, 3, 6.

l. 13. armis impiis] i.e. of Antony, see note p. 2 l. 1. Cp. Philipp. II § 44.

otium persequimur] 'devote myself continuously to,' cf. Hor. Epod. I 7 *utrumne iussi persequemur otium?*, Philipp. XII § 15 *ut cedamus, abeamus, vitam inopem et vagam persequamur*.

l. 14. rura peragrantes] 'roving from one place in the country to another.' In the summer of B.C. 44 Cicero was constantly changing his place of residence for fear of Antony. He had many country houses, one at *Tusculum* (once the property of Sulla), another at *Antium* (where he placed his best collection of books), another at *Arpinum*, two at *Formiae* (near the port of Caieta, and upon the mountains adjoining), another on the shore of *Baiae* which he calls his *Puteolanum*, a seventh on the hills of old *Cumae*, another at *Pompeii*. His house at *Puteoli* was built after the plan of the Academy at Athens, and called by that name, being adorned with a portico and grove for the purpose of philosophical conferences. With regard to the means which Cicero had to meet the expenses, which the possession of so many country seats must have entailed upon him, see the remarks of Middleton in his *Life of Cicero* § xii.

§ 2, l. 15. nec haec solitudo cet.] 'nor is my present isolation to be put on a par with that of Africanus.' **illa** for *illius*, I § 76, de Or. § 197 *cum Lycurgo*=*Lycurgi legibus*.

l. 17. sumebat implies, 'took at his own convenience, independently of others.'

l. 18. aliquando] 'upon certain occasions,' cp. § 12 l. 11 *liceret ei dicere utilitatem aliquando cum honestate pugnare*. **interdum]** 'now and then,' 'between whiles.'

frequentia] 'crowd,' 'concourse.'

l. 19. tamquam in portum] i.e. *ex alto*, I § 151.

l. 20. requiescendi studio] 'by earnest desire for repose.'

P. 2, l. 1. extincto—senatu] = *extincta libertate senatus*, § 4. The Senate's political power and freedom of debate had been destroyed by Antony the consul this year, who three days after Caesar's death surrounded with his armed followers the temple of Tellus where the Senate

met on the 18th of March, and later in the year that of Concordia where the Senate usually sat, in default of the Curia which had been burnt. Philipp. II § 19, § 89, § 112 *cur armatorum corona senatus saeptus est? cur me tui satellites cum gladiis audiunt? cur valvae* Concordiae *non patent? cur homines omnium gentium maxime barbaros, Ityraeos, cum sagittis deducis in forum?*

deletisque iudiciis] The law courts were of necessity closed by the enforced absence of the praetors, Brutus and Cassius.

quid est quod cet.] i.e. *quid est*, quod quidem *dignum nobis* sit, *quod agere possimus?*

l. 2. in foro] i.e. *in iudiciis.*

§ 3, l. 3. qui vixerimus]=quamvis vixerimus, 'after having lived'; the conjunctive serves to mark more strongly the contrast between his former and present position. Madvig on de fin. II § 106 *hic se ad ea revocat, e quibus nihil umquam rettulerit ad corpus,* observes 'rarius hoc est in eiusmodi sententia relativa, quae simul generis definitionem contineat.'

in maxima celebritate]=frequentia, 'in the greatest publicity.' Plutarch Cic. 8 *ἐθεράπευον δὲ καθ' ἡμέραν ἐπὶ θύρας φοιτῶντες οὐκ ἐλάττονες ἢ* Κράσσον *ἐπὶ πλούτῳ καὶ* Πομπήιον *διὰ τὴν ἐν τοῖς στρατεύμασι δύναμιν.*

in oculis] i.q. *in conspectu,* 'in the presence of,' de orat. II § 41, pro Planc. § 66. The phrase *in oculis esse* has also another meaning, viz. 'to be dear to any one.'

l. 5. quibus omnia redundant] 'with whom every place overflows.' In reference to the number of Caesar's veterans, and others whom Antony had collected to support his violent measures.

abdimus] *Abdere* is properly 'to stow a thing away,' 'to hide it'; hence *abdere sese*, 'to withdraw oneself from public life'; cp. ep. ad Att. XII 14, 20, de div. II § 6 *neque ego me abdidi,* Hor. ep. I 1. 5 of the retired gladiator Veianius *latet abditus agro,* Od. III 4. 38 of Caesar *fessas cohortes abdidit oppidis.*

l. 6. hominibus doctis] 'philosophers by profession,' II § 60 n.

l. 8. his ipsis] sc. *minimis malis,* 'even these.'

si quid inesset boni] 'if there was anything good among them.'

l. 9. otio fruor] 'I get some profit from my leisure.'

non illo quidem] sc. *otio,* serves to throw emphasis on the object of the verb and to contrast it with what follows. I § 60, II § 21.

debebat] sc. *frui,* 'ought to have enjoyed,' Zumpt Gr. § 518, Madvig Gr. § 348 e.

l. 9. **is, qui peperisset otium civitati**] generically, 'one who had procured,' cf. § 3 l. 5. There is a play here on the double meaning of *otium*, viz. 'leisure' and 'freedom from civil strife.' Cicero refers to his services in crushing the conspiracy of Catiline, for which he was greeted by Cato and Catulus with the title of *pater patriae;* cp. I § 77 *neque enim periculum in rep. fuit gravius umquam nec maius otium.*

l. 10. **eam solitudinem languere**] i.e. *me in ea solitudine languere.* See Nägelsbach lat. Stil. § 10, 3 (§ 15, 1) and my note on I § 32 *quae liberantur*, II § 68 *id quod violatum videbitur*, III § 36 l. 19 *error hominum.*

§ 4, l. 12. **quamquam**] adverbial, as a corrective particle, I § 30, II § 43.

maiorem laudem] An affectation of modesty on the part of Cicero; for throughout the chapter he tacitly implies that his retirement was more praiseworthy than that of Scipio, who left behind him no literary records or work of his leisure.

l. 16. **quas cogitando consequebatur**] 'to which he directed his thoughts.' **consequi** = *sequi* see note to I § 116 *fit ut...suum institutum consequantur.*

l. 18. **non tantum roboris habemus**] 'have not such strength of mind.'

tacita] 'silent,' not expressed in writing (*mandata litteris*).

l. 19. **abstrahamur**] i.e. nos abstrahere possimus, Wopkens' lect. Tull. p. 61.

l. 20. **plura brevi—scripsimus**] Cicero wrote nearly all his rhetorical and philosophical treatises between B.C. 46 and B.C. 44, the *Hortensius* s. *de philosophia* (II § 6), the book which led St Augustin to devote himself to philosophy, now lost, and the oratorical works, the *partitiones oratoriae*, the *Brutus*, and the *orator*, all of which are extant: his philosophical treatises *de consolatione*, after the death of his daughter Tullia, the *Academica*, containing an exposition of the New Academic philosophy, the *de finibus bonorum et malorum*, a criticism of the chief opinions entertained on ethics, the *Tusculanae disputationes* or discussion of certain questions concerning happiness and morality, the *de natura deorum*, the *de divinatione*, the *Cato maior de senectute*, the *Laelius de amicitia* (II § 31), the *de fato*, concerning fate and freewill; the *Paradoxa*, wherein some Stoic paradoxical opinions are criticised, and the lost work *de gloria* (II § 31). Cp. I § 3.

l. 21. **stante re publica**] the only extant writings of Cicero belonging to this period, apart from speeches, are *de inventione*, *de oratore*, *de re publica*, *de legibus*.

CHAPTER II

§ **5, l. 22. cum—deserta sit, tum**] 'with cum—tum, 'as well—as,' when each member has its own verb, the first is often put in the conjunctive to express a kind of comparison between the general and particular case. If only the connexion between the two is to be expressed (as p. 3 l. 3), the indicative is used.' Madvig Gr. § 359 *obs.* 3.

frugifera] 'fruit-bearing,' not so strong an expression as **fructuosa** 'teeming with fruit': **inculta** 'barren,' **deserta** 'unfruitful.'

l. 24. locus] 'division,' 'department,' I § 18. **de officiis**] short for is qui est de officiis.

l. 25. constanter honesteque vivendi] 'for leading a consistent and moral life.'

l. 26. Cratippo nostro] 'my friend Cratippus.' Cratippus was an eminent Peripatetic philosopher, born at Mitylene. When Cicero went as proconsul to Cilicia (B.C. 51) Cratippus met him at Ephesus and obtained afterwards by his influence the Roman franchise. On coming to Athens he was requested, at Cicero's instance again, by the Areopagus to open a school there. See I § 2.

huius memoriae] 'of the present age,' I § 2. Elsewhere Cicero (II § 8) calls him 'very like' (*simillimus*), but not 'equal to' (*par*) the old philosophers.

l. 27. audire—accipere] 'take in'; plus est *accipere* quam *audire*. *Audiunt* omnes discipuli, *accipiunt* diligentes. *Z.*

P. 3, l. 2. circumsonare] 'ring.' So *personare* ep. ad fam. VI 18, 4 *iam tamen personare aures eius huiusmodi vocibus non est inutile.* The passive *circumsonari* (which is the reading of the MS Bernensis c) is also used in the same sense.

§ **6, l. 4. haud scio an**] 'I am inclined to think,' 'probably,' its ordinary meaning in Cicero (I § 33), Madvig Gr. § 453, and the best writers, in later writers it is negative, 'probably not,' Zumpt Gr. § 721.

l. 5. tibi] cp. II § 44.

sustines enim cet.] 'for you have a burden to sustain in the no small anticipation men have of your imitating my perseverance, their sanguine expectation of your succeeding to my dignities, and to some extent possibly of rivalling my name. You have moreover incurred a heavy responsibility in respect of Athens and Cratippus, since having resorted to them for the acquisition of the liberal arts, it would be

a great discredit indeed for you to return empty, disgracing the high reputation of that city as well as of your teacher.' At the beginning of the first book Cicero says that his son had been attending Cratippus for a year.

l. 7. **onus**] For this sense of onus cp. Plin. ep. III 3, 7 *a te meque admonebitur quibus imaginibus oneretur, quae nomina et quanta sustineat*, ib. ep. VIII 24 § 8 *onerat te quaesturae tuae fama, onerat testimonium principis, onerat tribunatus, praetura.*

Athenarum] epexegetic gen.

l. 8. **cum sis profectus**] Madvig Gr. § 358, Kennedy Gr. p. 460.

ad mercaturam cet.] i.q. *ad mercandas bonas artes*, 'to take in a cargo of accomplishments.' Some wrongly translate 'mart,' as if the word were mercatus.

l. 9. **redire**] sc. *te*.

l. 12. **si discendi labor est**] i.e. *si discendi labor est potius* labor *quam voluptas*, cp. § 44 *non amicitiae tales, sed coniurationes putandae sunt*, de nat. deor. II § 168 *mala et impia consuetudo est contra deos disputandi.*

l. 13. **neve committas ut**] 'and do not be guilty of allowing that,' § 23 l. 4, I § 81.

cum omnia suppeditata sint a nobis] M. Cicero had complained to his father's freedman Tiro that he had received no allowance since the beginning of April, whereupon Cicero writes thus to Atticus: *tibi pro tua natura semper placuisse teque existimasse id etiam ad dignitatem meam pertinere, eum non modo liberaliter a nobis sed etiam ornate cumulateque tractari. Quare velim cures—ut permutetur Athenas, quod sit in annuum sumptum ei* (ad Att. XV 15, 4). Cicero had set aside for his son the rent of the houses of Terentia, which brought in yearly 100,000 sesterces (about £800).

l. 14. **haec hactenus**] 'but enough of this,' see I § 92.

l. 16. **propositae divisionis**] for *ex proposita divisione.*

§ 7, l. 17. **Panaetius**] Panaetius of Rhodes, head of the Stoic school at Athens (about B.C. 130—111), pupil and successor of Antipater of Tarsus. In his work on 'Moral obligations' he had divided the inquiry into three heads (1) is a thing right or wrong? (2) is it expedient or the reverse? (3) what are we to do when rectitude and expedience seem to clash? Cicero (ad Att. XVI 11) says that he omitted to discuss the last. See I § 9.

l. 18. **correctione quadam**] by adding two heads of deliberation to the three of Panaetius, see I § 10. **adhibita**] 'with.'

l. 21. **uno, cum dubitarent]** i.e. *uno quod tum esset, cum dubitarent.*

l. 22. **altero]** sc. *cum dubitarent.*

l. 24. **quo modo—oporteret]** subj. of oblique question, dependent on *dubitarent* understood.

l. 26. **deinceps]** 'in the course of his enquiry,' 'in its proper turn,' I § 42, II § 26.

nec exsolvit] 'without however performing his promise.' *Nec=nec tamen*, § 41 l. 14, § 92 l. 3.

§ 8, l. 28. **Posidonio]** I § 159.

triginta annis] 'that he was still alive thirty years after he had published it.'

vixisse postea quam—edidisset] Publ. Sch. Gr. § 467.

P. 4, l. 1. **breviter esse tactum]** 'has been only slightly touched upon.' Cf. *tantum* 'only so much' I § 11, *ita* I § 28, § 88, *unum* III § 111 l. 20, *paulum* 'only a little' I § 145.

in quibusdam commentariis] so Cic. renders ὑπομνήματα. Cp. § 121, ad Att. XVI 11, 4 *eum locum Posidonius persecutus. Ego autem et eius librum arcessivi et ad Athenodorum Calvum scripsi, ut ad me* τὰ κεφάλαια *mitteret, quae expecto.—In eo est* περὶ τοῦ κατὰ περίστασιν καθήκοντος (i.e. 'about that which is our duty under particular circumstances): ad Att. XVI 14, 14 *Athenodorum nihil est quod hortere; misit enim satis bellum* ὑπόμνημα, i.e. an abridgement of the work of Posidonius.

l. 2. **praesertim cum]** 'and that too though,' cp. *cum praesertim* § 110 l. 7, II § 56.

§ 9, l. 4. **praetermissum—relictum]** 'left untouched' (from oversight)—'left unregarded' (intentionally): cp. or. in Cat. III § 18 *hoc certe, quod sum dicturus, neque praetermittendum neque relinquendum est.* Observe that *relictum* depends on *aiunt* to be supplied from *negant.* Cp. de fin. I § 51.

l. 6. **de quo]** 'with regard to this assertion,' I § 21 *ex quo.*

l. 7. **habere dubitationem]** 'to admit of doubt,' an expression like the Greek ἀμφισβήτησιν ἔχειν. Cp. § 105, II § 79 *quam autem habet aequitatem?* ep. ad fam. X 18, 1 *ut consilium sequerer...quod habere posset obtrectationem*, ib. § 3 *nam quae res nullam habebat dubitationem ...ea nunc...magnum habet casum.*

adhibendumne fuerit] 'whether it ought to have been taken into consideration.' Acad. I § 39 *de naturis sic sentiebat, primum ut quattuor initiis rerum illis quintam hanc naturam, ex qua superiores sensus et mentem effici rebantur, non adhiberet.*

l. 10. qui—absolverit] subjunctive, because the meaning is 'one who has finished.' Cf. § 3 l. 4.

l. 13. deinceps] see above § 7 l. 26.

§ 10, l. 13. testis locuples] 'a credible witness.' Cp. § 105, § 100 *locupletiores auctores,* Liv. IX 9 *rei satis locupletes* h.e. *rei qui satis creduntur fidem sponsionis praestare.*

l. 15. Rufum] P. Rutilius Sp. F. Sp. N. Rufus (II § 47), the statesman orator and man of letters, was consul B.C. 105, and B.C. 99 *legatus* under Q. Mucius Scaevola when proconsul of Asia. While acting in this capacity by repressing the illegal extortions of the tax-collectors (*publicani*) he incurred the hatred of the equestrian body. Accordingly on his return to Rome he was unjustly arraigned of malversation (*de repetundis*), found guilty and compelled to withdraw into banishment B.C. 92 (Athenaeus IV p. 168 A παρὰ δὲ Ῥωμαίοις μνημονεύεται, ὥς φησι Ποσειδώνιος ἐν τῇ ἐνάτῃ καὶ τεσσαρακοστῇ τῶν ἱστοριῶν, Ἀπίκιόν τινα ἐπὶ ἀσωτίᾳ πάντας ἀνθρώπους ὑπερηκοντικέναι. οὗτος δ' ἐστὶν Ἀπίκιος ὁ καὶ τῆς φυγῆς αἴτιος γενόμενος Ῥουτιλίῳ τῷ τὴν ῥωμαϊκὴν ἱστορίαν ἐκδεδωκότι τῇ Ἑλλήνων φωνῇ, Cicero pro Font. § 28, Brut. § 135, de nat. deor. III § 80, de orat. I § 229, pro Rabir. § 27). He retired to Smyrna, where he passed the rest of his life in literary pursuits and declined Sulla's offer to reinstate him at Rome (Valerius Maximus VI 4 § 4, Ovid ep. ex Ponto I 3, 63, *et grave magnanimi robur mirare Rutili,* | *non usi reditus condicione dati.* | *Smyrna virum tenuit, non Pontus et hostica tellus,* Cic. pro Balbo § 28, de nat. deor. III § 80, de rep. I § 13, Tacitus ann. IV 43, Seneca de benef. V 17, 2, cons. ad Marc. 23, 3, ep. 24, de prov. 3, 4). Athenaeus VI p. 274 C tells us, doubtless on the authority of Posidonius, that he, Tubero and Scaevola were the only three Romans who observed the *lex Fannia sumptuaria.* In Brutus § 114 Cicero speaks of him as *Panaetii auditor, prope perfectus in Stoicis.* See Ellendt hist. rom. eloq. § 30 p. 37 ff. ed. Dübner, for an account of his orations.

qui—audierat] The indicative is used because it is a simple matter of fact relative clause.

l. 16. in Coa Venere] Pliny n. hist. XXXV 10, 36 *Apelles etiam incohaverat et aliam Venerem Coi superaturus fama illam suam priorem.*

Invidit mors peracta parte, nec qui succederet operi ad praescripta lineamenta inventus est. The other statue of Venus of which Pliny speaks was called the ἀναδυομένη, 'rising out of the sea.'

l. 17. **incohatam**] 'imperfect,' I § 153 *contemplatio manca atque incohata.*

l. 18. **imitandi**] 'of representing adequately,' Tusc. II 3, de or. II § 91 *nervos non assequitur, oris pravitatem imitatur*, or. § 24, § 74.

l. 19. **et non perfecisset**] = et incohasset. Cp. de fin. IV § 34 *ut Phidias potest a primo instituere signum idque perficere, potest ab alio incohatum accipere et absolvere,—huic similis est sapientia.*

l. 21. **persecutum**] 'followed out,' II § 87 *has res persecutus est in eo libro.*

CHAPTER III

§ **11**, l. **22**. **de iudicio**] 'deliberate intention.'

l. 24. **disputari**] The verb *disputare* has two meanings (1) 'to speak at length upon,' 'discourse,' 'examine into,' where one person is engaged, as in § 7 *de officiis disputavit*, 'has discussed the subject of moral duties,' (2) 'to argue about,' where several persons are engaged, = *in utramque partem disceptare*, in our sense of the word 'dispute,' as here and I § 9. Cp. Acad. II § 7 *neque nostrae disputationes quicquam aliud agunt, nisi ut in utramque partem dicendo eliciant et tamquam exprimant aliquid, quod aut verum sit aut ad id quam proxime accedat*, de fato X 21 *illa sententia habet aliquid disputationis.*

l. 25. **Stoicis—Peripateticis**] The Stoics declared that in comparison with virtue all other things sank into absolute insignificance, while the Peripatetics declared that they had a certain though infinitesimally small significance. **placet**, 'it is the opinion of.'

l. 26. **ita—ut**] 'so far...as that,' 'in so far...as' in a restrictive sense, the subj. therefore is not final but consecutive, as I § 28, § 88, III § 13. See Roby Gr. II 1704, Kenn. Gr. § 205, 5, Key Gr. § 1451 *b.*

l. 27. **vestris**] Cratippus, the instructor of young Cicero, was himself a Peripatetic.

ex altera parte collocata vix cet.] Here and in § 18 Cicero appears to be thinking of Critolaus' simile of a pair of scales. See Tusc. V § 51 *quo loco quaero, quam vim habeat libra illa Critolai,*

qui cum in alteram lancem animi bona imponat, in alteram corporis et externa, tantum propendere illam (boni) lancem putet, ut terram et maria deprimat, de fin V § 90 *si satis hoc perceptum...tantam vim esse virtutis, ut omnia, si ex altera parte ponantur, ne appareant quidem. Ex altera parte=in altera librae lance.*

P. 5, **l. 1. instar**] 'the equivalent.'

l. 3. contendere] 'come in collision with,' 'clash with.'

l. 4. qui primum haec] 'for the first time,' for *primi* cp. II § 9, de legg. I § 33 *recte Socrates exsecrari eum solebat qui primus utilitatem a iure seiunxisset: id enim querebatur caput esse exitiorum omnium*, Clem. Alex. strom. II p. 499 Κλεάνθης ἐν τῷ δευτέρῳ περὶ ἡδονῆς τὸν Σωκράτην φησὶ τῷ πρώτῳ διελόντι τὸ δίκαιον ἀπὸ τοῦ συμφέροντος καταρᾶσθαι ὡς ἀσεβές τι πρᾶγμα δεδρακότι.

opinione] 'through an error of judgment,' or the same as *cogitatione*, 'in theory.' Cf. § 75 l. 12 *errore divellere*.

l. 5. cui quidem] quidem is used in confirmation of a previous statement. On ita ut see above p. 4 l. 26.

§ 12, l. 7. is esset—qui diceret] 'were the sort of man to say,' consecutive subj., cp. II § 7 *non enim sumus ei quorum vagetur animus errore nec habeat umquam quid sequatur*, Zumpt Gr. § 556.

l. 8. propterea quod] 'only because.' **efficiens utilitatis esset**] i.q. *efficeret utilitatem*, 'were productive of expediency,' § 116 *efficiens voluptatis*, 'the efficient cause of pleasure,' de orat. II § 114 *perferentes iniuriarum*.

l. 9. ut ei] sc. dicunt.

res expetendas—metiuntur] 'measure the worth of things desirable by the standard of pleasure (as did Aristippus of the Cyrenaic school, B.C. 370, see § 116), or by privation of pain,' as did Hieronymus of Rhodes (B.C. 300) who reckoned the highest good to be ἀναλγησία, a word which Cicero translates in various ways, as *nihil dolere, doloris omnis amotionem, cum dolor omnis detractus est, ut ita dicam indolentiam, doloris vacuitatem, sine ulla molestia vivere* de fin. II § 16.

l. 10. indolentia] a word coined by Cicero to translate Gr. ἀναλγησία. Cf. de fin. II § 19; Tusc. III § 12.

l. 11. aliquando] above § 2 l. 18.

pugnare] 'clashes with,' 'is repugnant to.'

l. 13. specie quadam utilitatis] 'with some sort of show of expediency.' There is a reference here to the Stoic theory of προηγμένα and ἀποπροηγμένα. Although virtue is in their eyes the *solum bonum*

(p. 4 l. 25), still there are such differences amongst other things as will incline the wise man to desire some of them (*προηγμένα = producta, praecipua*, de fin. III § 51) and reject others (*ἀποπροηγμένα* = reiectanea de fin. IV § 72), his real happiness, however, remaining absolutely unaffected.

accessione—decessione] 'addition'—'subtraction,' de div. II § 36 *decessio capitis aut accessio*, Timaeus c. 6 *neque enim ulla decessio fieri poterat neque accessio*, Rabir. Post. § 30 *utrum accessionem decumae an decessionem de summa fecerit.*

l. 16. videretur—est] Observe the change of moods, the one clause being subjective, the other objective: cp. § 67 *nec eum esse deceptum qui id, quod emerat, quo iure esset teneret.* See A. du Mesnil on de legg. I § 58 p. 78.

l. 17. compararetur] consecutive subjunctive after *in qua*, 'of such a kind—that.'

§ 13, l. 18. convenienter naturae vivere] infinitive in apposition with *summum bonum* as *appellare* in appos. to *mansuetudinem*, I § 37 'to live conformably to nature' (*ὁμολογουμένως τῇ φύσει*): the sum of the tenets of the Stoic philosophy was to rise above the disorderly habits and gross indulgences of the vulgar to higher laws of action, which nothing but self-denial and self-command would enable the aspirant to observe. '*Φύσις, natura*, denoted originally the material universe regarded as the result of some primordial element or law...The later Greek sects extended the term till it embraced not merely the visible creation, but the thoughts, observances and aspirations of mankind, the moral phenomena of society considered as resolvable into some general and simple laws.' Sir H. Maine, Ancient Law, p. 53 f., cp. de fin. V § 24.

habet hanc sententiam] 'they mean thereby.'

l. 19. cum virtute congruere] According to the Stoics, virtue and perfected nature were one: cp. de leg. I § 25 *est autem* virtus *nihil aliud quam in se perfecta et ad summum perducta natura*, de Invent. II 53 virtus *est animi habitus naturae modo atque rationi consentaneus.*

cetera] all other things, such as health, strength, mental abilities, riches, honours, prosperity, and generally *bona externa, bona corporis.* All these things, which the Stoics considered to be *secundum naturam* (*κατὰ φύσιν*), as their opposites were *contra naturam*, they regarded as indifferent things in comparison with virtue, placing them in the category of 'neither good nor evil.' See Acad. I 10, Schwegler Hist. Phil. p. 128 ff. Engl. tr.

l. 20. essent] It is the prevailing idiom of Cicero to construct the present tense with historic consecution. Cp. I § 29, II § 1.

ita legere, si] 'on condition that,' I § 28, III § 11, de sen. § 38 *ita senectus honesta est, si se ipsa defendit.* On *legere* Heusinger remarks '*quae legenda* esse concedebant, ea *praeposita* vel *praecipua* (προηγμένα) dicebant, eis contraria *reiectanea.* Vide de fin. III § 50, § 51, IV § 69, § 70.' The corresponding Stoic term to *legere* is ἐκλέγεσθαι.

l. 21. putant quidam] sc. Stoici.

l. 22. hanc comparationem] i.e. between the *honestum* and *utile.*

nec omnino de eo genere quicquam praecipiendum fuisse] 'but that no practical lessons at all ought to have been given on questions of that nature.'

l. 24. atque—quidem] corrective = Gr. καίτοι, see Hand Tursell. I p. 494 f.

illud—honestum, quod proprie vereque dicitur] i.e. in its philosophical or ideal sense (§ 1 and § 17), in opposition to *secunda honesta* § 15. On *vere* cp. § 1 l. 10.

illud quidem—id] cp. I § 126 for a similar pleonasm, de fin. V § 22 *id ipsum honestum, quod amplecti vult, id efficit turpe,* Tusc. III 71, Philipp. II § 30, § 63, § 101, Madvig Gr. § 489 a.

l. 27. nullo modo] sc. *esse potest,* Zumpt Gr. § 781.

l. 28. similitudines honesti] 'mere similitudes of the good,' cp. I § 46 *simulacra virtutis,* de div. § 71 *haec—simulacra sunt auspiciorum, auspicia nullo modo,* de off. III § 69 *umbra et imagines* in opposition to *germanae iustitiae solida et expressa effigies.*

§ 14, l. 28. haec enim officia] i.e. *quae—multi assecuntur etc.* The statement introduced by *enim* is *illud autem officium etc.* cp. I § 119, II § 17. Beier places the words *media Stoici appellant* in a parenthesis and makes *ea* redundant after *haec,* as above l. 24 *illud quidem—id.*

l. 29. media] because lying between the things *secundum naturam,* and the things *contra naturam,* such as those recommended in the *Enchiridion* of Epictetus. The Stoic κατόρθωμα *officium rectum* or *perfectum* admitted of no degrees: but the *media,* the μέσον καθῆκον 'incomplete duty,' does admit of degrees and improvement. See I § 8, and cp. Tusc. III § 11.

P. 6, l. 1. communia] i.e. cum omni hominum genere § 15, 'shared by them in common with all men.'

ingeni bonitate] i.q. *naturae bonitas* I § 5, Gr. εὐφυΐα τῆς ψυχῆς, 'natural inborn goodness.'

l. 2. **progressione discendi**] 'by advancement in learning,' προκοπή, because virtue is a thing that may be taught and depends on knowledge, *quae debetur doctrinae et disciplinae.* Reid Acad. I § 20 l. 12 n.

l. 3. **rectum**] Stobaeus ecl. eth. II 184 [p. 586 *ed. Gaisford*] κατόρθωμα δ' εἶναι λέγουσι καθῆκον, πάντας ἐπέχον τοὺς ἀριθμούς· ἤ καθάπερ προείπομεν, τέλειον καθῆκον.

l. 4. **omnes numeros habet**] πάντας ἔχει τοὺς ἀριθμούς, 'is complete.' Some take this expression to be a metaphor from the *palaestra*, by an analogy between graceful motions and poetic numbers, others, to mean that which is complete in all its parts, like Greek τετράγωνος, 'square,' i.e. perfect, with no inequality. Cp. the phrase *omnibus numeris absolutus*, also de fin. III § 24 *quae nos aut recta aut recte facta dicamus, si placet, illi autem appellant* κατορθώματα, *omnes numeros virtutis continent*, i.e. as it is expressed by Plutarch de Stoic. repugn. 7 p. 1034 ὁ κατὰ μίαν ἀρετὴν ἐνεργῶν κατὰ πάσας ἐνεργεῖ, de nat. deor. II § 37 *expletum omnibus suis numeris et partibus*, de div. I § 23 *quod omnes habet in se numeros veritatis.*

l. 5. **cadere in**] 'fall within the reach of,' 'belong to,' 'affect,' a favourite phrase with Cicero, § 17, § 81, Tusc. III § 12 *cadere in sapientem aegritudinem dixisti.*

§ 15, l. 7. **cumulate**] 'amply,' 'abundantly,' de div. I § 3 *quae* (*quaestio*) *ut plene esset cumulateque perfecta.*

propterea quod] because, to the popular apprehension, there is no distinction between the *media* and *perfecta officia*, the former fully answering their idea of perfection.

l. 8. **quid absit a perfecto**] i.e. quantum desit ad optimi perfectionem, 'how far it falls short of.' **non fere**] 'does not as a rule.'

l. 9. **quod idem**] so Heine after Non. p. 488 reads for the vulgate *quod item*, comparing I § 116 *quod idem fecit Timotheus.*

l. 11. **ut delectentur**] subj. in *ut*-clause, defining *quod usu venit* 'what happens,' 'is an ordinary occurrence,' namely that.

l. 13. **quod capiat**] 'of a kind to catch,' 'take the fancy of.'

l. 14. **cum sunt docti a peritis cet.**] 'after they have been taught by experts, they readily waive their opinion.'

CHAPTER IV

l. 16. quasi secunda quaedam] i.q. *secundaria*, 'a sort of second-grade moral duties.' *Quasi* serves to modify the expression *secunda honesta* used to express what the Stoics called *μέσα καθήκοντα*, not *δεύτερα καλά*. *quaedam* serves to show that the word does not exactly convey the writer's meaning, or is not strong enough.

l. 18. communia] above § 14, l. 1.

§ 16, l. 19. virtutis indoles] i.q. *similitudo honesti*, *incohata virtus*, in opp. to perfect and complete virtue.

l. 20. commoventur] 'are influenced,' cp. § 35 l. 5.

duo Decii] cp. I § 61 where also they are mentioned together with the two Scipios. The father devoted himself for the good of his country in the Latin War B.C. 340 (Liv. VIII 9, Cic. de div. I § 51, Herenn. IV 44), the son in the Samnite War (B.C. 295).

duo Scipiones] the elder and younger Africanus.

l. 21. Fabricius] C. Fabricius Luscinus consul in B.C. 282 and 278 during the invasion of Pyrrhus, who vainly attempted to bribe him. He on the other hand refused to take advantage of an offer from one of the king's attendants to poison his master. Cp. I § 40.

aut Aristides] Obviously an interpolation. Cicero is taking his examples from Roman, not from Greek history; also for *iustus nominatur* we should have expected *iusti nominantur*, as *commemorantur* is used just before; *aut* is omitted in some MSS, and the best MSS of Lactantius inst. div. VI 6, 26, where this passage is quoted, have *ab hoc*, not *ab his*.

l. 23. tamquam a sapiente] 'as though from the ideal perfect man of the Stoics.' The Stoics attached such superhuman excellences to their *sapiens*, that their leading philosophers scarcely ever ventured to name any person as having actually attained to them. Cf. Tusc. II § 51 *in quo vero erit perfecta sapientia, quem adhuc nos quidem vidimus neminem, sed philosophorum sententiis, qualis hic futurus sit, si modo aliquando fuerit, exponitur*. See § 14 l. 29 n.

P. 7, l. 2. habiti] sc. *sunt*.

M. Cato] M. Porcius Cato Sapiens the Censor, de am. § 6 *quasi cognomen iam habebat in senectute Sapientis*, § 9 *aut enim nemo, quod quidem magis credo, aut, si quisquam, ille* (Cato) *sapiens fuit*, de sen. § 5 where Cato himself says to those who expressed

admiration of his wisdom *utinam digna esset opinione vestra nostroque cognomine.*

C. Laelius] de am. § 6 Fannius says to Laelius *existimare debes omnium oculos in te esse coniectos unum; te sapientem et appellant et existimant.*

l. 3. ne illi quidem septem] 'no more were the famous seven,' *sapientes* being understood, as in de am. § 59 *a Biante, qui sapiens habitus esset unus e septem*, ib. § 7 *nam qui septem appellantur, eos qui ista subtilius quaerunt in numero sapientium non habent.* So *duodecim* stands sometimes for *duodecim tabulae* (de leg. II § 60), and in Gr. *οἱ ἑπτὰ* for *οἱ ἑπτὰ σοφοί.* The seven sages were Bias, Chilo, Cleobulus, Pittacus, Periander (or in some lists *Myson*), Solon, Thales. On **ne—quidem**, 'not either,' 'no more' cp. 2 Phil. § 10 *non tractabo ut consulem; ne ille quidem me ut consularem*, and Mayor's note. Cp. § 94 l. 16.

ex mediorum officiorum frequentia] 'from (because of) their constant practice of *media officia*,' § 14 l. 29 n.

§ 17, l. 5. quod vere honestum est] 'what is morally right in the true sense of the word,' § 1 l. 10, § 17 l. 11.

l. 6. cum utilitatis repugnantia] i.e. *cum utilitate quae repugnat honestati*, 'with expediency when it is repugnant to rectitude.' Cp. I § 122 *ineuntis aetatis inscitia.*

l. 7. communiter] i.e. docti indoctique.

l. 8. bonos se viros haberi volunt] As to the accusative construction after *volo malo* as opposed to a nominative, Kühner explains that the former is preferred when a stress is laid on the object of the wish not on the fact of wishing. Cp. I § 65 *principem se esse mavult.*

l. 9. que] 'but,' § 32 l. 12, § 49 l. 24.

l. 10. in nostram intelligentiam cadit] 'is on a level with,' 'falls within our comprehension,' i.e. whereof we are capable, according to the Stoic theory that virtue is wisdom. Cp. § 14 l. 5, de nat. d. I § 21 *quod ne in cogitationem quidem cadit.*

l. 11. nobis] by us ordinary men.

illud] sc. *tuendum conservandumque est.*

quod—vere est honestum] *κατόρθωμα.* See § 14 l. 29 n.

l. 12. aliter] i.q. alioqui, 'otherwise,' I § 139, II § 42.

teneri] 'be maintained,' *progressionem tenere* after the analogy of the expressions, *cursum, iter, fugam tenere.* The meaning of *progressio* (*προκοπή*) Cicero explains Acad. I 5 *quod incohatum est neque absolutum*

progressio quaedam ad virtutem appellatur, cp. above § 14 l. 2, de fin. III § 48 *qui processit aliquantum ad virtutis habitum*, ib. IV § 64 *procedere et progredi in virtute.*

§ **18**, l. 15. **metiuntur**] § 12 l. 10.

l. 16. **ea**] sc. *emolumenta*.

praeponderari] § 11 *vix minimi momenti instar habeant*, § 35 *honestas omni pondere gravior*.

l. 20. **hoc ipsum sensisse cet.**] = nihil aliud voluisse quam quod verba sonant (Heusinger) 'meant exactly what he said,' i.e. his words are to be taken in their literal sense.

l. 21. **non modo—sed etiam**] nota descensum a maiori ad minus per *non modo—sed etiam*, hoc sensu 'Turpissimum est adeo, haec duntaxat *inter se comparare et in his addubitare;* nedum *pluris putare quod utile videatur quam quod honestum*. Haec ne comparari quidem fas est.' BEIER.

l. 22. **quod honestum sit**] § 12 l. 16 n.

l. 24. **addubitare**] i.q. *ad dubitationem accedere*, 'to incline to doubt,' so I § 83, Liv. II 4, 7 *de legatis paululum addubitatum est*, VIII 10, 2 *paulisper addubitavit*.

l. 26. **quale sit**] subjunctive of oblique question after *dubitatio*, Madvig Gr. § 356, cp. II § 86 *observatione, quae res prodesse soleant*.

l. 27. **de quo consideretur**] dependent and assimilated subjunctive.

§ **19**, l. 27. **tempore**] 'by particular circumstances,' I § 31 *ea* (sc. *fundamenta iustitiae*) *cum tempore commutantur*. The plural is more common in this sense. So I § 31 *sed incidunt saepe tempora*, § 59 *non eidem necessitudinum gradus qui temporum*. Cases of this kind, where circumstances are to be taken into account, were said by the Stoics to happen κατ' οἰκονομίαν.

P. 8, l. 2. **ponatur aliquid quod pateat latius**] 'let a particular case be supposed, which admits of a wider application,' i.e. may be applied to other similar cases. See I §§ 4, 20, 26 *quod enim est apud Ennium,—id latius patet*, which is explained I § 51 *quod ab Ennio positum in una re transferri in permultas potest*.

l. 5. **si qui tyrannum occidit cet.**] Loquitur scriptor de Caesaris caede, etsi eum non nominat, ut II § 23. Hic enim *coniurationis auctoribus* (M. Iunio) *Bruto et Cassio...adiectis etiam consiliariis caedis familiarissimis omnium et fortuna partium eius in summum*

evectis fastigium, D. Bruto et C. Trebonio aliisque, interemptus...et incautus ab ingratis occupatus dicitur Velleio Pater. II 56, 3 coll. ib. 57, Appian II 107—117, Plutarch. in Caesar. c. 62, 64, 66, Dio Cass. XLIV 12 ss., Sueton. Caesar 80, Cic. de div. II § 23. BEIER.

quamvis familiarem] 'however intimate with him,' I § 86.

l. 6. **populo quidem Romano non videtur**] the *quidem* restricts the assertion to the particular word after which it is placed, and so gives emphasis to it, 'as far as the public of Rome are concerned, they do not think so,' II § 23 *multorum odiis—nuper est cognitum.* Tacitus however says that opinions were divided about this (Ann. I 8), and Suetonius (Caes. 76) less decidedly, *praegravant tamen cetera facta dictaque eius ut et abusus dominatione et iure caesus existimetur.*

l. 7. **praeclaris factis**] the more usual expression is *praeclare factis*, Zumpt Gr. § 722.

l. 8. **honestas utilitatem secuta est**, 'morality followed from, was the result of expediency,' for *honestas* and *utilitas* are inseparable things, and there can be no conflict between them, but only between seeming *utilitas* and *honestas.* The expediency of the murder of the tyrant was a matter of course. This is forgotten by those edd. who alter the text by inserting after *utilitatem* (sc. *vicit*) the words *honestatem utilitas:* see critical note. The expression *utilitas honestatem secuta est* may be compared with § 40 *itaque utilitas valuit propter honestatem, sine qua ne utilitas quidem esse potuisset.*

l. 10. **errore**] § 34 l. 24, § 75 l. 12.

l. 11. **quod honestum intellegimus**] 'which we conceive of as morally right,' § 17 *quod in nostram intelligentiam cadit*, I § 95 *generale quoddam decorum intellegimus.*

l. 12. **formula**] i.q. *norma*, *regula*, a fixed general rule, or criterion to which particular cases may be referred: properly a juristic word, see § 60.

§ **20**, l. 15. **rationi disciplinaeque**] 'system of philosophy and teaching.' Ratio is the Greek *μέθοδος*, 'via qua artes traduntur vel discuntur, disciplina est artis vel doctrinae alicuius *σύστημα*,' Kühner Tusc. disp. I § 2. So *ratio* and *scientia* are joined de orat. I 46.

l. 15. **quam quidem**] sc. disciplinam.

l. 16. **veteribus Academicis**] the old Academics in opposition to the later school of sceptics represented by Arcesilas and Carneades, called *nostra Academia*, p. 9 l. 1.

l. 17. **qui quondam idem erant cet.**] Because Plato the founder

of the Academic sect, and Aristotle of the Peripatetic, both derived, in great measure, their doctrines from a common source, Socrates. Cp. I § 2 *sed tamen nostra* (i.e. *Academica*) *legens, non multum a Peripateticis dissidentia, quoniam utrique et Socratici et Platonici volumus esse;* and de leg. I § 38 *Aristotelem et Theophrastum cum Speusippo Xenocrate Polemone* (the old Academics) *congruentes re, genere docendi paullum differentes.* See Reid on Acad. I § 17.

l. 19. **splendidius**] 'more grandly,' 'more nobly,' cp. § 101, I § 4, de fin. I § 6 *quid habent, cur Graeca anteponant iis quae et splendide dicta sint neque sint conversa de Graecis?* Tusc. III § 22 *sententiis tamen utendum eorum* (Stoicorum) *potissimum, qui maxime forti et, ut ita dicam, virili utuntur ratione atque sententia.* Reid Introd. to Cicero's Acad. p. xvi ed. 2.

disseruntur] 'are expounded.' Cp. de fin. III § 10 where a Stoic philosopher says *quidquid enim praeter id quod honestum sit expetendum esse dixeris in bonisque numeraveris:—honestum ipsum, quasi virtutis lumen, extinxeris:* and II § 35, where Zeno's *finis honestatis* is said to be *posita in decore tota, id est, honestate,* without any addition or modification. [The MSS reading *disserentur* is explained by Fabritius as = *disseri poterunt.*]

l. 22. **quam ab eis**] sc. *Academicis et Peripateticis.* **honestum aliquid**] 'some particular moral act,' if not all or many, which is much the same thing as saying 'under special circumstances,' opposed to *omne,* 'in all circumstances,' I § 27 *in omni iniustitia.*

P. 9, l. 2. licentiam dat, ut—liceat] For the subjunctive see § 15 l. 11. A similar redundancy of expression occurs in § 37 *hoc deliberantium genus qui deliberant,* I § 8 *ea sic definiunt ut...officium perfectum esse definiant.*

maxime probabile] 'in the highest degree probable.' The Academics admitted degrees of probability, but not of certainty. Cp. II § 7, III § 33, Tusc. V § 33 *cum aliis isto modo, qui legibus impositis disputant: nos in diem vivimus; quodcumque nostros animos probabilitate percussit, id dicimus, itaque soli sumus liberi.*

l. 8. **formulam**] above § 19 l. 12.

CHAPTER V

§ 21, l. 4. detrahere—hominem] i.e. *detrahere aliquem alteri aliquid et, cum sit homo, etc.* (*Allen.*) **igitur**, 'well, then,' introduces the general rule or formula referred to in § 20.

l. 5. **magis est contra naturam cet.**] 'for nothing being so agreeable to Nature as society, that which tends to the ruin and dissolution of this, must needs be of all things most contrary to Nature. Now the very end and design of society is the mutual help and assistance of each other, without which it is impossible it should ever subsist. *Ita naturalis est societatis utilitatum communio* (says Grotius) *ut sine ea nequeat societas consistere* (de iur. b. ac p. praef.). Those men therefore, who, instead of profiting, injure their fellows, do what directly tends to the ruin of society, and consequently what of all things is most contrary to Nature.' *Cockman.*

l. 7. **aut corpori cet.**] II § 88 *commoda...ipsa inter se corporis et externa cum externis comparari solent.*

l. 8. **principio**]=*primum*, 'to begin with,' I § 11.

tollit] 'makes impossible.' The subject is the foregoing sentence, cp. 2 Phil. § 8 *quid est aliud tollere ex vita vitae societatem, tollere amicorum colloquia absentium?*

l. 9. **si sic erimus adfecti**] sc. *animo*, 'if we are so disposed,' I § 66 *cum ita sit affectus animo*, infr. § 29 l. 11.

l. 10. **disrumpi necesse est**] like *oportet* may be followed by infin. or subjunctive. Zumpt Gr. § 625, Madv. Gr. § 373 *obs.* 1, Roby Gr. II. 1356.

l. 11. **eam**] by attraction for *id, quod maxime est secundum naturam*, sc. *societatem*. Cf. below § 31 l. 10.

§ **22**, l. 12. **unum quodque membrum**] Apparently a reference to the fable of Menenius Agrippa, Liv. II 32. The same simile is used by Seneca de ira II 31, Xenophon mem. II § 18, St Paul ep. Corinth. I xii. 12—27.

sensum hunc...ut putaret] § 20 l. 2 n.

l. 13. **haberet—rapiat**] Notice the imperfect subjunctive in an impossible or unlikely hypothesis, the present in such as is possible. Zumpt Gr. § 524.

l. 14. **valetudinem**] 'soundness,' II § 86.

traduxisset] On the tense see P. S. Gr. p. 485.

l. 16. **quod cuique possit**] sc. detrahere.

l. 18. **sibi ut quisque malit—concessum est**] consecutive subj. For the position of ut in the sentence cp. § 29 *neminem ut.*

l. 20. **non repugnante natura**] i.e. *iure gentium*, as it is presently defined § 23, the *ius naturale* in opposition to the *ius civile*. On the nature of *ius gentium* and its practical, not speculative origin, the

student will do well to consult an essay on *edicta magistratuum* in Long's Verres I p. 166, Sir G. C. Lewis' Politics II p. 30 ff. p. 133, and Maine's Ancient Law p. 46 ff. The *ius naturale* 'the law of nature' and *ius gentium* 'the law of nations' are convertible terms, see § 69, and de rep. III § 22, also Tusc. I § 13 *omni in re consensio omnium gentium lex naturae putanda est,* Justinian Inst. I, 2 *omnes populi, qui legibus et moribus reguntur, partim suo proprio, partim communi omnium hominum iure utuntur; nam quod quisque populus ipse sibi ius constituit, id vocatur ius civile, quod vero naturalis ratio inter omnes homines constituit, id vocatur ius gentium quasi quo iure omnes gentes utuntur.* Aristotle, rhet. I 13 ὥρισται δὴ τὰ δίκαια καὶ τὰ ἄδικα πρός τε νόμους δύο καὶ πρὸς οὓς ἐστι διχῶς. λέγω δὲ νόμον τὸν μὲν ἴδιον τὸν δὲ κοινόν, ἴδιον μὲν τὸν ἑκάστοις ὡρισμένον πρὸς αὐτοὺς καὶ τοῦτον τὸν μὲν ἄγραφον, τὸν δὲ γεγραμμένον, κοινὸν δὲ τὸν κατὰ φύσιν· ἔστι γάρ, ὃ μαντεύονταί τι πάντες, φύσει κοινὸν δίκαιον καὶ ἄδικον κἂν μηδεμία κοινωνία πρὸς ἀλλήλους ᾖ μηδὲ συνθήκη, οἷον καὶ ἡ Σοφοκλέους Ἀντιγόνη (450—457) φαίνεται λέγουσα ὅτι δίκαιον ἀπειρημένον θάψαι τὸν Πολυνείκη, ὡς φύσει ὂν τοῦτο δίκαιον· οὐ γάρ τι νῦν γε κἀχθές, ἀλλ' ἀεί ποτε ζῇ ταῦτα, κοὐδεὶς οἶδεν ἐξ ὅτου 'φάνη. Thucyd. II 37.

non patitur, ut—augeamus] Zumpt Gr. § 613, de am. § 87 *is pati non posset ut non anquirat aliquem.* See Reid on Acad. II § 54.

§ **23, l. 22. natura, id est iure gentium**] admonet haec eadem esse, ut apte a natura transeat ad singularum civitatum leges commemorandas. Madvig de fin. II § 6 p. 144 ed. 2. **id est,** 'or rather,' Reid on Acad. I 5.

l. 23. legibus populorum...continetur] 'the laws of particular communities upon which the government in each state depends for its safety.' Contineri in re means 'to be comprised in anything,' so as not to go beyond it, contineri re, 'to be dependent upon it,' II § 58, I § 20 *ratio qua...communitas continetur.*

l. 25. sui] 'one's own,' cp. II § 73.

hoc—spectant leges] 'this is what the law looks to,' I §§ 7, 25, II § 45, III § 90.

l. 27. quam] 'and those who dissever it,' sc. the social tie.

damno] = *multa,* 'pecuniary fine.'

P. 10, l. 1. atque hoc] sc. *ut non liceat hominem hominis incommodo suum augere commodum.* This second main argument, corresponding to *principio* § 21 l. 8, extends to end of § 26.

hoc efficit ipsa naturae ratio] i.e. *ratio quae inest in ipsa natura, recta ratio, hoc* declarat, docet, probat 'this follows from.' For this meaning of *efficere* cp. I § 160. It is followed sometimes by the acc. and infinitive, more frequently by *ut* consecutive or definitive with the subjunctive, Kühner Tusc. I § 77. **ipsa**] 'direct.'

naturae ratio, quae est lex div. et hum.] 'the rational principle in nature itself which is equivalent to divine and human law.' Cp. Diogen. Laert. VII 88, where Chrysippus bids us *ὁμολογουμένως τῇ φύσει ζῆν· ὅπερ ἐστὶ κατ' ἀρετὴν αὐτοῦ καὶ κατὰ τὴν τῶν ὅλων, οὐδὲν ἐνεργοῦντας ὧν ἀπαγορεύειν εἴωθεν ὁ νόμος ὁ κοινός, ὅσπερ ἐστὶν ὁ ὀρθὸς λόγος διὰ πάντων ἐρχόμενος, ὁ αὐτὸς ὢν τῷ Διὶ καθηγεμόνι τούτῳ τῆς τῶν ὄντων διοικήσεως ὄντι.* The universal, all-pervading reason, the primary law in the community of gods and men (I § 153), in Cicero *lex summa, vera atque princeps, ultima; ratio summa insita in natura, quae iubet ea, quae facienda sunt, prohibetque contraria* de leg. I § 18. Cp. de nat. deor. II § 79 *sequitur, ut eadem sit in eis (deis) quae humano in genere ratio, eadem veritas utrobique sit eademque lex, quae est recti praeceptio pravique depulsio*, with de legg. I § 23 *est igitur, quoniam nihil est ratione melius eaque est et in homine et in deo, prima homini cum deo rationis societas; inter quos autem ratio, inter eos etiam recta ratio communis est: quae cum sit lex, lege quoque consociati homines cum deis putandi sumus*, ib. II 8—10, rep. III 33.

l. 2. qui velit—committet] for *qui volet*, I § 71, II § 72.

l. 3. numquam committet ut—appetat] 'will never be guilty of coveting.' Committere ut always in a bad sense, § 6 l. 13, I § 81, II § 50.

§ 24, l. 5. etenim] a confirmation of, not a ground for, the previous statement, *hoc efficit etc.* In the grandest maxim of the Stoics *ὁμολογουμένως τῇ φύσει ζῆν, φύσις* means on the one hand the universal law of the universe, on the other its copy, the rational nature of man.

l. 6. comitas] some read *communitas*. Either would be in an abbreviated form written *cōitas*. But *comitas, iustitia, liberalitas* are the virtues which constitute the cardinal virtue *communitas*, see I § 152. In I § 20 *liberalitas* embraces *comitas*. Cp. § 118, de fin. V § 65 *quae animi adfectio suum cuique tribuens...iustitia dicitur, cui sunt adiunctae pietas, bonitas, liberalitas, benignitas, comitas quaeque sunt generis eiusdem.* The two words often coincide in meaning, as also *comiter* and *communiter*. Cp. p. Balb. § 36.

l. 8. comparantem] The acc. refers to the indefinite subject of

the infinitives *contemnere*, *ducere*. So below l. 14 *imitantem*, l. 17 *abundantem*, § 23 l. 26, I § 92, II § 67, Zumpt Gr. § 608, Madvig Gr. § 388 b, Roby Gr. II 1430.

l. 10. de altero]=de re alterius s. de alieno.

§ **25**, l. **12. itemque**] Cicero now proceeds to speak of the second side of *fortitudo* or *excelsitas* and *magnitudo animi*, viz. *res magnas gerere* (I § 66), the other, of which he had been speaking hitherto, consisting of *despicientia rerum externarum*.

l. 14. Herculem illum] eius aerumnas saepius tamquam exemplum imitationis commemorat Noster fin. II § 118, III § 66, Tusc. I § 32; cf. Soph. Trach. 1010 ss., 1160 s., Arrian de reb. ind. p. 254. BEIER.

l. 15. in concilio caelestium collocavit] Cp. Hor. od. III 3, 9 *hac arte Pollux et vagus Hercules enisus arces attigit igneas*, IV 5, 35 *laribus tuum miscet numen uti Graecia Castoris et magni memor Herculis*, 8, 29 *sic Iovis interest optatis epulis impiger Hercules*, cf. epist. II 1, 10.

l. 16. in solitudine] 'in a state of isolation,' 'separated from intercourse with mankind,' the opposite of *convictus hominum et societas* I § 153.

l. 18. ut excellas] concessive subjunctive, 'though you should surpass others.'

pulchritudine et viribus] According to the doctrine of Zeno (Diog. Laert. VII 107) εὐφυΐα and ἰσχύς, 'beauty and strength,' had in themselves (δι' αὑτὰ) a value and consequently would have the same *in solitudine*. Cp. de fin. V § 46.

l. 19. splendidissimo] 'endowed with the most noble character,' § 20 l. 19.

l. 20. efficitur] 'it is demonstrated,' I § 160, II § 10, III § 23.

l. 21. oboedientem]=si oboediat, P. S. Gr. p. 498.

§ **26**, l. **23. aut nihil existimat**] i.e. *hoc facit, aut quod nihil existimat cet.* There are two cases (1) A man thinks that he is not acting wrongly, or (2) he confesses to the wrong but thinks it excusable by the magnitude of the loss he would otherwise incur. To do an injury to one who perhaps is unimportant and unconnected with himself seems less serious than death. This is the principle on which most people act: whereas they ought to be convinced that a disorder of the soul (and injustice is one) is much worse than any disadvantage affecting the fortune or the body.

P. 11, l. 4. hominibus violandis]=violatione hominum: so I § 5 *nullis officii praeceptis tradendis.*

quid cum eo disseras, qui—hominem ex homine tollat] 'how are you to argue with one who takes away from man all that makes him man?' i.e. divests man of his human nature, strips him of the distinguishing characteristic of his humanity. Cf. de fin. V 35 *hominem exuens ex homine.* The meaning is: those who take the selfish line are either too depraved and debased for argument to be of any use, or utterly deceived and mistaken in their estimate of good and evil.

cum eo] i.q. *adversus eum*, cf. § 88 l. 25, § 107 l. 20, l. 2, § 111 l. 4, pr. Sull. § 87 *vehemens fui vobiscum.*

l. 6. peiora] sc. esse.

l. 7. in eo, quod] 'in respect of this, that,' 'in that.'

ullum aut corporis aut fortunae vitium—existimat] 'thinks any evil affecting either person or property more serious than moral evils.'

CHAPTER VI

l. 8. unum] in its strengthening force 'above all.' Cp. § 28 *haec enim una virtus omnium est domina*, Tusc. I § 27 *itaque unum illud erat insitum priscis illis*, de nat. d. II § 74 *in te convenit, unum moribus domesticis ac nostrorum hominum urbanitate limatum.* Often with superlatives *unus nequissimus* 2 Phil. 7, *unus praestantissimus* de am. I.

l. 9. ut eadem sit—universorum] namely, 'that the interest of each separate individual and the whole collective body of the citizens be identical.' On *ut* definitive or explanatory see § 15 l. 11. Roby Gr. II § 1648.

l. 10. quam] eam enim. **ad se rapiet**] 'shall appropriate to himself.'

l. 11. consortio] i.q. *societas, convictus*, 'intercourse.'

§ 27, l. 12. atque etiam] 'and further,' I § 90.

l. 13. quicumque sit] etiamsi servus, alienigena, barbarus. *H.*

l. 14. consultum velit] i.q. *consulere velit.*

necesse est—esse] § 21 l. 10 note.

l. 15. quod si ita est—prohibemur] The steps in the argument

are these: (*a*) If Nature prescribes that a man (*homo qua homo*) must wish well to a man (*homo qua homo*), the *utilitas* of all is identical;

But if the *utilitas* of all is identical,

we are all under one and the same law of nature:

(*b*) Therefore we are prohibited by the law of nature *at least* from injuring another.

But (*a*) is true, therefore (*b*) is true.

Cicero might still better have based his argument upon man's common possession of reason: cp. Marc. Aur. IV 4 *εἰ τὸ νοερὸν ἡμῖν κοινόν, καὶ ὁ λόγος καθ' ὃν λογικοί ἐσμεν κοινός· εἰ τοῦτο, καὶ ὁ προστακτικὸς τῶν ποιητέων ἢ μὴ λόγος κοινός· εἰ τοῦτο, καὶ ὁ νόμος κοινός· εἰ τοῦτο, πολῖται ἐσμέν.* Cp. de fin. III § 64 *mundum autem censent regi numine deorum eumque esse quasi communem urbem et civitatem hominum et deorum, et unum quemque nostrum eius mundi esse partem; ex quo illud natura consequi, ut communem utilitatem nostrae anteponamus.*

l. 16. continemur] § 23 l. 24.

l. 17. certe] 'at least,' i.e. even if we are not bound to assist, we are *at least* bound not to injure.

§ 28, l. 18. primum—extremum] 'the antecedent,' *omnium util. esse comm.*,—'the consequent,' *violare—prohibemur*. The conclusion might have been deduced immediately from the first proposition *si hoc natura praescribit cet.*

nam] II § 47.

l. 20. aliam rationem esse] 'that it is a different consideration with,' 'that it is quite another thing with.'

l. 22. communis utilitatis causa] i.e. quae pertineat ad communem utilitatem servandam augendamque. *Z.*

l. 25. negant] sc. *rationem esse habendam* 'say that no account is to be taken of.'

l. 27. quae qui tollunt etiam adversus cet.] *quae* refers to all that precedes, including *communem societatem*. Stobaeus ecl. eth. p. 216 *πᾶν ἁμάρτημα ἀσέβημα εἶναι, τὸ γὰρ παρὰ τὴν βούλησίν τι πράττεσθαι τοῦ θεοῦ ἀσεβείας εἶναι τεκμήριον.*

P. 12, l. 1. ab eis] sc. dis.

l. 3. vinculum est—arbitrari] arbitrari with the clause dependent upon it (*magis esse...iustitia*) is the subject, vinculum the predicate.

l. 5. incommoda vel externa vel corporis cet.] II § 88.

l. 6. **quae vacent iustitia**] 'so long as they are not concerned with Justice': for when the idea of Justice comes in, which is the supreme virtue, higher considerations may make it our duty to resist these *incommoda* even though it involves *homini detrahere sui causa*. [This is the reading of all but one of the MSS, which Facciolati, followed by Stuerenberg, explains to mean 'quae iniuste tibi illata sint, quae non patiaris ex merito.' But even if the words could themselves bear that signification, the context and the following sentence *haec enim* cet. require that they should have a subjective force. Orelli's reading *quae non vacent iustitia* is liable to the same objection. Most editors read *quae vacent iniustitia* explaining *haec una virtus* in the next clause to refer to *iniustitiae vacatio* implied in *quae vacent iniustitia*. Beier's reading *quae vacent iustitiae*, which he explains *quae locum relinquant, capacia sint, iustitiae* 'which leave room for the exercise of justice,' scarcely deserves attention. Heine, who in his first edition read *quae vacent iniustitia*, in his fifth retains the MS reading, and accepts the conjecture of Lambinus that something of the same sentiment which is found in § 25 originally stood here, viz. :—et rursus magis esse secundum naturam hominem homini prodesse, quam omnia commoda percipere vel externa vel corporis, *etiam ipsius animi, quae vacent iustitia*.]

§ **29**, l. 8. **forsitan quispiam dixerit**] the second objection corresponding to the first *nam illud quidem absurdum*. With this begins the discussion of the seeming conflict between moral good and expediency.

dixerit] coniunctivus potentialis, 'some one might perchance say.' Madvig Gr. § 350 a, Roby Gr. II 1536.

nonne—abstulerit] hypothetical conjunctive perfect (rare), Roby Gr. II 1532. Cf. I § 59 *ut vicinum citius adiuveris*.

l. 9. **homini**] i.e. *qui quidem sit homo*.

l. 10. **minime—gratia**] bracketed with Müller. The sentence seems to be an interpolation. It contradicts the real answer to the question, which is given in § 30 l. 16. The answer to the question about Phalaris follows in § 32.

l. 11. **animi—adfectio**] 'disposition,' 'mood,' 'temper,' cp. de fin. V § 65, III § 65 *ex hac animorum adfectione*, Tusc. IV § 34 *virtus est affectio animi constans conveniensque* (sc. *secum*), διάθεσις ψυχῆς σύμφωνος αὑτῇ as Stobaeus ecl. eth. II p. 104 expresses it. Cp. Plato legg. XI 1 οὐ γάρ ποτε τοσοῦτον εἰς χρημάτων ὠφεληθείην ἂν κτῆσιν ἀνελών. ὅσον εἰς ὄγκον πρὸς ἀρετὴν ψυχῆς καὶ τὸ δίκαιον ἐπιδιδοίην ἂν μὴ

ἀνελόμενος, κτῆμα ἀντὶ κτήματος ἄμεινον ἐν ἀμείνονι κτησάμενος, δίκην ἐν τῇ ψυχῇ πλούτου προτιμήσας ἐν οὐσίᾳ κεκτῆσθαι πρότερον, i.e. 'for I should not gain so much in the acquisition of property, if I take up the prize, as I should grow in justice and virtue of soul, if I abstain: and this will be a better possession to me than the other in a better part of myself, for I should prefer the possession of justice in the soul to the possession of wealth.'

neminem ut violem] § 15 l. 11. For the position of *ut* see § 22 l. 18.

l. 12. Phalarim] Phalaris, tyrant of Agrigentum in Sicily, contemporary with Solon. He was stoned to death by his subjects chiefly at the instigation of Zeno of Elea. See Val. Max. III 3, 2; Ovid Ibis 441, sq. See II § 26 *Phalaris cuius est praeter cetera nobilitata crudelitas.*

l. 14. nonne faciat] i.e. vestitu spoliet, see I § 4 *facere* for *pronuntiare.*

haec ad iudicandum cet.] cp. I § 126 *difficilibus* ad *eloquendum.* The primary reference is to the particular question *quid? si Phalarim cet.* but it comprehends a fuller discussion of the whole subject.

§ **30, l. 16. homine ad nullam partem utili]** 'if he be a man good for nothing in any relation,' 'perfectly worthless,' § 28 *ad nullam rem.* The emphatic clauses of this sentence, it will be readily seen, are *utilitatis tuae causa* and *ob eam causam* (sc. *ut in vita remanens hominum societati utilitatem adferre possis*).

l. 17. inhumane] not 'cruelly' but 'basely,' 'meanly,' Nägelsb. lat. Stil. p. 208.

l. 18. sin autem—si quid—detraxeris, non sit reprehendendum] § 50 l. 7 affords another example of conditional clauses subordinate to a primary conditional clause, see Madvig de fin. II § 111, Nägels. lat. Stil. § 149.

l. 20. ob eam causam] sc. *ut in vita remanens hominum societati utilitatem adferre possis.*

l. 23. non igitur cet.] therefore, because in the interests of society a worthless man is robbed of something, it does not follow that, etc. Cp. § 35 *tum non utilitas relinquenda est.*

l. 24. aut quid eius modi] for aliquid aliud *eiusmodi*, Zumpt Gr. § 708, Madvig Gr. § 493 a.

P. 13, § 31, l. 6. qui si occiderit cet.] 'whose death would be a great loss to the public weal,' a parenthetical clause.

l. 7. modo hoc ita faciat, ut ne cet.] i.e. transferat res ad vivendum necessarias. Translate: 'provided he do so in such a way as not to make his self-esteem and self-love the occasion of acting unjustly towards others,' II § 72 *sed ita ut ea res aut prosit aut certe ne obsit reipublicae*. For *ut ne* see Madvig Gr. § 456 *obs*. 4. *Hanc causam*, i.e. *haec* (hanc existimationem et hunc amorem) *habeat causam*.

l. 8. sese diligens] sc. *nimis* (φίλαυτος), cp. I § 29 *nisi nosmet ipsos valde amabimus*.

ad iniuriam] sc. faciendam, Hand Tursell. I 112.

l. 9. ita] 'in this way,' 'by so doing,' i.e. *cum nemini detrahet nisi propter communem hominum quam plurimorum societatisque humanae utilitatem, cuius derelictio iniusta est*. Cp. II § 20 *ita fortasse etiam brevior videbitur*.

§ **32, l. 11. nam**] above § 27.

l. 12. nulla est enim cet.] a covert allusion to the death of Caesar: cp. § 19, II § 23.

et potius] for *sed potius* after a negative, so *potiusque* I § 92, *ac potius* I § 68.

l. 16. exterminandum] 'to be expelled.' Cp. Gr. ἐξορίζεσθαι.

l. 17. si et ipsa sanguine cet.] *ut cetera pars corporis tuta sit, membrum, quod paulatim emoritur, abscindere* iubet Celsus de med. V. 26, 34 extr. Quod Celsus *paulatim emori*, id Cicero *incipere sanguine et tamquam spiritu carere* dicit. *Sanguis* autem est vita. Sic Horat. I od. 24, 15 *num vanae redeat sanguis imagini*. Verba *et ipsa* (sibi suo damno, in suam perniciem) opponuntur illis *et nocent reliquis*. *H.*

spiritu] 'the vital principle,' 'vital energy.'

l. 18. in figura hominis]=cum sit hominis figura, 'with the outside of a man.' *In* with the ablative, if not part of the predicate, frequently stands for a secondary clause: cp. I § 22 and see Kritz on Sallust Cat. II § 10 p. 15.

l. 19. inmanitas] in opposition to *humanitas*, as § 82 *hominis figura inmanitatem gerat beluae*, pro S. Rosc. § 63 *portentum est esse aliquem humana specie et figura qui tantum inmanitate bestias vicerit*.

a communi tamquam humanitate corporis] 'from what may be called the general body of humanity.' *Belua*, corresponding to the single limb, is the tyrant, *corpus* the body or totality of citizens or men. As the genitives *beluae* and *corporis* are opposed to each other, so *feritas* and *inmanitas* are opposed to *humanitas*; and as *feritas beluae* stands for *fera belua*, so *humanitas corporis* stands for *humanum corpus*. Cp.

Seneca ep. 95, 52 *omne hoc quod vides, quo divina et humana conclusa sunt, unum est: membra sumus corporis magni.* The change to *humanitatis corpore* from the reading of the MSS is unnecessary.

l. 21. **ex tempore officium**] = τὸ κατὰ περίστασιν καθῆκον, 'duty which is contingent on circumstances,' see under § 8 and cp. § 19 *tempore fit.* Take *ex t.* with *exquiritur*, I § 107 *ex qua ratio inveniendi offici exquiritur.*

CHAPTER VII

§ **33.** The foregoing chapters are in form introductory, and yet they contain the essence of Cicero's ideas on the subject of this Book. What follows seems to consist of repetitions and illustrations of those ideas. *Garve.*

l. 23. **persecuturum fuisse**] 'would have followed up.' P. S. Gr. § 443 note 2, Roby Gr. II 1570, Madvig Gr. § 409.

P. 14, l. 1. aliqui casus] I § 115, Zumpt Gr. § 135.

l. 2. **quas ipsas**] = *quarum ipsarum rerum* cf. § 2 l. 15. **peremisset**] i.q. *sustulisset*, 'had frustrated,' 'cut short his design.' Cp. Cic. pro Sest. § 49 *si causam publicam mea mors peremisset*, de harusp. resp. § 23 *si ludi non intermissi, sed perempti atque sublati sunt*, pro Planc. § 101 *si vis aliqua maior mihi reditum peremisset.* Hence, as Heusinger observes, *peremptorium* is *id quod perimit*, that which 'puts an end to' the discussion and brings matters to a conclusion. **ad**] 'in reference to,' i.e. for the elucidation of.

ex superioribus libris satis multa praecepta sunt] a want of exactness in expression similar to that in I § 15 *ex ea parte, quae prima descripta est—inest indagatio atque inventio veri.* Instead of *praecepta peti possunt* Cicero says *praecepta sunt.* The meaning is 'there are indeed precepts enough out of his former books relating to the abovementioned doubts and scruples, such that from them it may be seen clearly what is to be avoided because of its immorality, what again is not to be avoided because of its not being absolutely in all cases immoral.' Heine in his fifth and last edition adopts the heroic remedy of omitting *ex:* Beier before him had suggested that it should be transposed before *quibus*, Müller follows Beier.

l. 3. **quibus**] 'such that from them.'

l. 6. **incohato**] 'incomplete,' 'defective,' I § 153.

l. 7. **fastigium**] 'the gable-end of a roof,' Cic. ep. ad Quint. fr. III 1, 14 *tectum multorum fastigiorum;* hence metaphorically 'the last or crowning point.'

geometrae] 'mathematicians,' Tusc. I § 5 *in summo apud illos honore geometria fuit, itaque nihil mathematicis illustrius*, de fin. V § 83 *ut in geometria prima si dederis danda sunt omnia.*

l. 8. **quo facilius—explicent**] i.e. ut eo *facilius explicent*, final subj. 'in order to explain more easily thereby what they want.'

l. 10. **si potes**] in opposition to *sin non licet*, l. 11.

l. 11. **expetendum**] *expetenda* esse Stoici dicebant, quae per se, bona cetera *legenda* vel *sumenda*, I § 12, 23. *H.*

sin hoc non licet per Cratippum] 'but if you may not without hindrance from Cratippus,' cp. pro Mil. § 43 *quod aut per naturam fas esset, aut per leges liceret*, Verr. V 49 *si per L. Metellum licitum esset.*

l. 12. **at illud certe dabis**] 'yet this at all events you will grant.' Cp. I § 35, § 114, Madvig Gr. § 437 c.

dabis] i.q. concedes, de fin. II § 82, IV § 49, de div. I § 113.

l. 13. **maxume propter se**] the doctrine of the Peripatetics, to which sect Cratippus belonged.

mihi utrumvis satis est cet.] 'either of the two you please is sufficient for my purpose, and now this, now that appears more probable,' *tum hoc*, the Peripatetic doctrine *honestum esse proxume propter se expetendum; tum illud*, the Stoic *sola honesta esse bona.* Cp. de am. § 13 *qui* (Socrates) *non tum hoc, tum illud, ut in plerisque, sed idem semper* (sc. *dicebat*). 'The later Academics, particularly Arcesilas and Carneades...prided themselves on not being obliged to support dogmatically any set of views; while others were in bondage to doctrines, they alone were free to put forward 'now this, now that.' Cp. Cic. Academica *passim* but particularly II 134 *tum hoc mihi probabilius, tum illud videtur*, II 121 *modo hoc modo illud probabilius videtur;* also de nat. d. I, 47 *Cotta meus modo hoc modo illud*,' Reid on Cic. de am. § 13.

§ **34**, l. 16. **Panaetius defendendus est**] Against this reproach Cicero has already defended Panaetius § 18.

l. 17. **quod dixerit**] P. S. Gr. § 469.

utilia] things really expedient in opp. to *quae viderentur utilia.*

l. 18. **neque enim ei fas erat**] for he could not consistently say so, since as a Stoic he held that rectitude was not only the highest but the sole good, § 11.

l. 19. **nihil vero**] *vero* pertinet ad solutionem dubitationis modo iniectae. *Z.*

l. 21. **pestem**] cp. II § 73 *ad aequationem bonorum...qua peste quae potest esse maior?* Alan reads *eorum, opinione qui—*.

l. 22. **distraxerint**] § 11 *itaque accepimus Socratem execrari solitum eos, qui primum haec natura cohaerentia opinione distraxissent cet.*

l. 23. **aliquando**] 'upon certain occasions,' § 1.

ea] i.e. the apparently and really moral and expedient.

l. 24. **si quando incidissent**] sc. *diiudicanda*, 'if ever they should fall in,' i.e. if cases should occur for decision: I § 31, III §§ 40, 50.

eam, quae videretur esse, non quae esset, repugnantiam] 'a seeming, not actual, collision,' i.e. between *honestum* and *utile*.

l. 26. **nullis adminiculis**] Ablative of attendant circumstances with adjective as predicate, cp. *nullis suis rebus adversis* II § 61.

P. 15, l. 1. **Marte nostro**] 'of our own resources,' 'independently.' A proverbial expression, borrowed from waging war without foreign aid. Nägelsb. lat. Stil. p. 210, Philipp. II § 95 *rex ipse sua sponte—suo Marte res suas reciperavit.*

l. 2. **quod quidem mihi probaretur**] 'of such a nature, at least, as to satisfy me.' On the restrictive use of the consecutive subjunctive with *qui* see Madvig Gr. § 364 *obs.* 2, Zumpt Gr. § 559.

l. 3. **de eis**]=*ex eis*, 'from among those,' cp. pro Milon. § 65 *se gladio percussum esse ab uno de illis*, Horat. Od. III 11, 33 *una de multis face nuptiali digna*, de off. II § 32 *de illis tribus, quae ante dixi benevolentiae praecepta videamus.* Cp. Hand Tursellinus II p. 196 ff. For the double ablative *de hac parte—de eis* cp. Madvig Gr. § 278 a.

CHAPTER VIII

§ 35, l. 4. **cum—aliqua species utilitatis obiecta est**] cp. II § 37 *cum aliqua eis ampla et honesta res obiecta totos ad se convertet*, de fin. I § 47 *plerique—obiecta specie voluptatis tradunt se libidinibus constringendos.* **species**]=' specious appearance.'

l. 5. **commoveri necesse est**] § 16. The object must necessarily make an impression on us, but it depends on ourselves whether we yield to that impression or not (*συγκατάθεσις, assensus*). An indefinite subject is implied: in the following clause the indefiniteness is continued by the use of the verb in the second person, Madvig Gr. § 388 b *obs.* 2, Zumpt Gr. § 608 n., Roby Gr. II 1430.

l. 7. **tum non utilitas relinquenda est**] 'then it is not required that you should sacrifice expediency, but that you should clearly see

that it is not possible there can be any benefit, where there is immorality.' Cp. § 30 and § 40.

l. 9. **quod si nihil est cet.**] Cicero's argument is this:—'There cannot be any inconsistency in Nature. But Nature teaches all men to regard what is expedient, to shun what is morally wrong. Therefore if the desire both of expediency and of moral good is a natural desire, these must be naturally inseparable, at all events it is absurd to suppose that expediency and moral wrong can be found in the same thing.' Observe that Cicero is here speaking of absolute, not apparent, expediency.

l. 10. **convenientia—constantia**] 'things in accordance with our rational nature,' 'harmony'—'things in agreement with themselves,' 'consistency.'

l. 11. **secundum naturam**] 'in conformity with nature.'

l. 13. **itemque**] The second syllogism, which differs but little from the first. In both something that remains to be proved is supposed as the foundation of the proof. The syllogism was the form of speech in which the Stoics liked best to prove their positions and attack their opponents. Cicero speaks (Tusc. II § 42) of the *contortulae et minutae conclusiunculae Stoicorum nec ad sensus permanantes.*

l. 14. **Zenoni**] The founder of the Stoic sect, surnamed *Cittieus*, from his birthplace Cittium, a town in Cyprus. See above § 11, I § 6.

certe]=*profecto*, *sine dubio*, Gr. δηλονότι, 'assuredly,' cp. Hand Tursell. II p. 19.

omni pondere gravior] 'infinitely more important.' A similar expression is found de fin. II § 109 *omnibus partibus maiores*, where Madvig observes 'sic Latini loquuntur, cum id significant quod Germanis est '*unendlich grösser.*' Est enim quasi ultimum et extremum eius multiplicationis, qua *multis partibus maius aliquid dicimus* (*vielmal*): conf. de Invent. I 58 *omnibus partibus commodius*, Lucretius I 735 *inferiores partibus egregie multis.*' Cp. § 11 *minimi momenti instar*, and see Nägelsb. lat. Stil. p. 37.

l. 16. **necesse est, quod honestum cet.**] The same syllogism as in de fin. III § 27 *quod est bonum, omne laudabile est, quod autem laudabile est, omne est honestum, bonum igitur quod est, honestum est*, cp. II § 10.

l. 18. **ita**] 'consequently.' *Ita* is often used thus to mark a deduction from certain premises; as I § 10 *ita quam ille triplicem cet.*, Tusc. I § 12 *si igitur non sunt, nihil possunt esse: ita ne miseri quidem sunt*, § 58 *animus, cum se conlegit atque recreavit, tum agnoscit illa remini-*

scendo. Ita nihil est aliud discere nisi recordari. Cp. Hand Tursell. III p. 485, who says 'Itaque procedit ad aliud quod latius patet, ita acquiescit in re demonstranda.'

§ **36**, l. 20. **arripuit**] The subject is *error = homo errans*, abstract for concrete, as I § 29 *actio = qui agit:* cf. III § 28 l. 23.

continuo] 'without any break or interval.'

l. 21. **hinc sicae cet.**] 'this is the origin of assassinations, poisonings, forgeries of wills, thefts, embezzlement of public monies.' Cp. de nat. deor. III § 74 *tum haec quotidiana, sicae, venena, peculatus, testamentorum etiam lege nova quaestiones.*

l. 23. **opum nimiarum, potentiae non ferendae**] sc. *cupiditates.*

l. 25. **cupiditates**] I § 136 *ne aut ira existat aut cupiditas aliqua,* II Phil. § 117 *dominandi cupiditate.*

nihil nec—nec] see note to § 76 l. 7, § 102 l. 14, I § 66, § 92, II § 44.

l. 26. **fallacibus iudiciis**] 'with mistaken conclusions,' 'in their false appreciation.'

l. 27. **poenam—legum**] h.e. *a legibus constitutam.*

quam...perrumpunt] Verr. I 5, 13 *confringat iste sane vi sua consilia senatoria, quaestiones omnium perrumpat, evolet ex vestra severitate,* orat. part. § 112 *depellendi criminis vel perrumpendi periculi,* de leg. II § 43 *iudicia perrupta ab eisdem.*

P. 16, l. 1. **ipsius turpitudinis**] § 102, Seneca ep. 87, 24 *atqui maximum scelerum supplicium in ipsis est.*

§ **37**, l. 3. **hoc deliberantium genus**] 'doubters of this sort,' Nägelsb. lat. Stil. § 29. 2.

l. 5. **qui deliberant**] i.e. *quod est eorum qui*—a repetition of the participle *deliberantium,* occasioned by the parenthesis. Cp. § 20 *licentiam dat...ut liceat.*

l. 6. **ipsa**] 'mere' or 'generally.'

l. 7. **dubitatione**] i.q. *deliberatione,* I § 30.

ad id] sc. *facinus committendum.* With *pervenerint* cp. Gr. ἐπεξελθεῖν.

l. 9. **ex omni deliberatione**] 'in deliberation under any circumstances.'

l. 10. **satis**] 'thoroughly.'

l. 11. **si modo in philosophia cet.**] 'if we have but made some actual proficiency as philosophers.' **aliquid**] 'something definite,'

'something worth mentioning.' *Aliquis* after *si* is more vivid and emphatic than *quis*, Madvig Gr. § 493 a *obs.* 1, Donaldson Lat. Gr. p. 388, Kenn. Gr. p. 290: cp. Cic. Phil. XIII 1 *proximo bello si aliquid de summa gravitate Pompeius, multum de cupiditate Caesar remisisset, et pacem stabilem et aliquam remp. nobis habere licuisset*, i.e. 'if Pompey had given up *somewhat* of his high dignity, if Caesar had given up much of his ambition, we might have had durable peace and *some* sort of republic,' pro Mil. § 66 *Pompeius...timebat, non ea solum quae timenda erant, sed omnia, ne vos aliquid timeretis*, 'Pompey feared all things, that you might not have something really to fear,' in opp. to nothing. Cp. for the sentiment Isocrates ad Demonic. c. 6 § 5 μηδέποτε μηδὲν αἰσχρὸν ποιήσας ἔλπιζε λήσειν· καὶ γάρ, ἂν τοὺς ἄλλους λάθῃς, σαυτῷ γε συνειδήσεις. Cicero uses this rule to distinguish between *boni* and *callidi viri* also in de leg. 1 § 40.

CHAPTER IX

§ 38, l. 14. hinc]=*hac causa*, 'for this reason,' 'to illustrate this truth,' 1 § 61 *hinc rhetorum campus.*

ille Gyges] 'the well-known Gyges,' the Lydian shepherd, who put to death king Candaules and seized the throne of Lydia and became the founder of the Mermnadae, Herod. 1 8—12. Plato (de rep. II p. 359) makes the same use of the story which Cicero does here.

l. 15. qui] observe the accumulation of relatives, *qui—cuius—quibus—quem.*

cum terra discessisset cet.] de div. 1 97 *cum caelum discessisse visum esset.* The words of Plato are ῥαγῆναί τε τὴν γῆν, καὶ γενέσθαι χάσμα—καὶ ἰδεῖν ἄλλα τε δὴ ἃ μυθολογοῦσι θαυμαστὰ καὶ ἵππον χαλκοῦν, κοῖλον, θυρίδας ἔχοντα.

l. 16. illum] sc. *quem terra discedens fecerat.*

l. 18. apertis] partic. not adjective.

magnitudine inusitata] Plato has μείζων ἢ κατ' ἄνθρωπον.

l. 19. ut] i.e. *postquam.*

l. 20. in concilium se pastorum recepit] 'repaired to the company of the shepherds.' Plato's words are, συλλόγου δὲ γενομένου τοῖς ποιμέσιν εἰωθότος, ἵν' ἐξαγγέλλοιεν τῷ βασιλεῖ τὰ περὶ τὰ ποίμνια, ἀφικέσθαι καὶ ἐκεῖνον ἔχοντα τὸν δακτύλιον.

l. 21. cum—converterat] iterative 'as often as,' with plup. ind.,

P. S. Gr. p. 334 § 91, Madvig Gr. § 338 a *obs.*, Zumpt § 579, Roby II 1717.

palam] from *pala*, 'the part of the ring in which the stone is set,' 'the box,' 'bezel,' Gr. *σφενδόνη*, because the stone rested in it, like a stone in a sling. Plato says *καθήμενον οὖν μετὰ τῶν ἄλλων τυχεῖν τὴν σφενδόνην τοῦ δακτυλίου περιαγαγόντα πρὸς ἑαυτὸν εἰς τὸ εἴσω τῆς χειρός* (*ad palmam*).

l. 22. **a nullo videbatur**]=*cernebatur*, 'he became invisible,' a sense common in Lucretius, not uncommon in Cicero. Cp. Munro Lucr. I 270.

l. 23. **in locum**] i.q. *in locum suum*, 'into its proper place.' So Tusc. II § 26 *Philo et proprio numero et lecta poemata et loco adiungebat*, ep. ad fam. IX 10 *posuisti versus Accianos loco*, Brut. § 274 *nullum nisi loco positum et tamquam in vermiculato emblemate—structum verbum videres*, de leg. III § 40 *ut loco dicat, id est, rogatus*, Hor. od. IV 12, 28 *dulce est desipere in loco.* Zumpt Gr. § 481. So *tempore* I § 104.

l. 24. **opportunitate anuli**] 'by the advantage which the ring gave him.'

l. 25. **regem dominum**] 'his royal master,' not *regium* as § 38 l. 20.

P. 17, l. 3. **nihilo plus**] i.q. *nihilo magis*, § 89, § 118 *non plus quam amicitia.* Verr. II 7, 21 *tum nemo molestus Dioni fuerat non plus quam Liguri.* All the MSS except c have *nihil plus:* but see Reid's note on Cic. Acad. II § 59 p. 246 and cf. I § 72.

quam si non haberet] sub. *sibi putaret licere.* Heine compares de nat. deor. II § 144 *auditus flexuosum iter habet, ne quid intrare possit, si simplex et directum haberet*, where we must supply *quod posset.*

l. 4. **bonis viris**] Cicero rarely uses the recipient dative for the ablative of the agent with passive verbs; only, with the exception of a few instances, with the participle perfect passive, Zumpt Gr. § 419, Roby Gr. II 1146, Kenn. Gr. p. 390, Madvig Gr. § 250 *a.* In fact after such verbs as *quaeri*, *audiri etc.* the dative expresses not so much the subject *by* whom as the person *for* whom something takes place; and perhaps with the participle perfect passive the dative may be explained as the *dativus commodi:* thus *pertractata mihi sunt*=*pertractata habeo.*

§ 39, l. 5. **philosophi quidam**] the Epicureans. Rectitude according to Epicurus is not *φύσει* but *θέσει* (I § 14). Diog. Laert. X 151 *ἡ ἀδικία οὐ καθ' ἑαυτὴν κακόν, ἀλλὰ ἐν τῷ κατὰ τὴν ὑποψίαν φόβῳ, εἰ μὴ λήσει ὑπὲρ τῶν τοιούτων ἐφεστηκότας κολαστάς. οὐκ ἔστι τὸν λάθρα τι*

ποιοῦντα, ὧν συνέθεντο πρὸς ἀλλήλους εἰς τὸ μὴ βλάπτειν μηδὲ βλάπτεσθαι, πιστεύειν ὅτι λήσει, κἂν μυριάκις ἐπὶ τοῦ παρόντος λανθάνῃ. Lucretius V 1150 ff. 'softens and tones down what Epicurus himself in the above passage expresses in all its naked harshness,' Munro, who also quotes Sen. ep. 97 *eleganter itaque ab Epicuro dictum puto* potest noscenti contingere ut lateat, latendi fides non potest...*tuta scelera esse possunt, secura non possunt:* and what the Epicurean says in Cic. de fin. § 150 *quamvis occulte fecerit, numquam tamen id confidet fore semper occultum.*

minime mali illi quidem cet.] i.q. *boni homines* in the ironical sense in which it occurs II § 2. Cp. Tusc. II § 44 *venit Epicurus, homo minime malus, vel potius vir optimus,* de orat. III § 64 *sunt enim (Epicurei) boni viri et, quoniam sibi ita videntur, beati,* Tusc. I § 6 (of Amafanius and Rabirius) *ab optimis illis quidem viris, sed non satis eruditis.* So frequently in the comic poets as Ter. Andr. 846 *salve, bone vir!* Cicero frequently taunts Epicurus and his school with their lack of wit and learning (perhaps in reference to the contempt which they affected for Dialectic and Logic), as Tusc. I § 48 *ex quo intellegi potest quam acuti natura sint, quoniam haec sine doctrina credituri fuerunt,* in Pis. § 70 *non philosophia solum sed etiam ceteris studiis, quae fere Epicurei neglegere solent, perpolitus,* de fin. II § 80 *sed quamvis comis fuerit (Epicurus) in amicis tuendis, tamen—non satis acutus fuit.* **illi quidem**] On the concessive sense of *illi* in this phrase, see Mayor on Phil. II § 93.

l. 6. **commenticiam**] 'imaginary.'

l. 7. **quasi vero ille—defendat**] 'as though, forsooth, he maintained, asserted.' Observe that *quasi* is followed by a verb in the present conjunctive, although the supposition is inadmissible, because in the preceding clause the verb is the present (*dicunt*), Madvig Gr. § 349 *obs. Quasi vero* is used to correct an erroneous supposition, Madvig § 444 *obs.* 1, P. S. Gr. § 228. *Vero* seems not to have an adversative, but an assertive sense, adding force to the word with which it is joined, just as in answers to a question in combination with *ita, minime.*

l. 8. **vis**] 'the meaning,' 'the design.' I § 142, III § 77, Tusc. I § 52 *hanc habet vim praeceptum Apollinis,* ib. V § 51 *quaero quam vim habeat libra illa Critolai.* **anuli et exempli**] 'the example of the ring.'

l. 9. **nemo ne—quidem**] The double negative here strengthens the negation, § 36 l. 25, § 57 l. 27, I § 66.

l. 11. **feceris**] the future perfect, i.q. *cum a te factum erit* vel *fuerit*.

l. 12. **negant id fieri posse**] i.e. *ut semper ignotum futurum sit.*

l. 13. **nequaquam potest id quidem**] The MS reading is *quamquam potest id quidem* 'though it is not so impossible neither,' as if Cicero were asserting a dogma of the Academy; but when speaking his own sentiments as here, Cicero never impugns belief in divine providence, de nat. deor. I § 3, de leg. I § 21, de fin. I § 51. I have adopted therefore the conjecture of Manutius as most probable, considering that Cicero had no reason for abandoning his sentiments here. Moreover the opposition implied in *sed quaero, id si posset* requires that a negation should have preceded. On the omission of *fieri* after *potest* cp. II § 72 Tusc. I § 23 *cuperem utrumque, si posset*, ib. § 77 *qui potest? Qui possit, rogas?* Acad. II § 121 *negas sine deo posse quicquam.* See Madvig de fin. IV § 48, V § 84. Müller however retains *quamquam*, in which case translate: 'it is certainly, as I maintain, possible: but (that is not the question before us) I ask (assuming their point of view to be correct), what would they do, supposing what they say is impossible were possible?' M. regards *dis hominibusque* as having nothing to do with divine providence, but only to mean 'all the world.' Cf. ad fam. I 9, 19.

l. 14. **urguent rustice sane**] 'they stick to their assertion with right boorish stubbornness, for they assert that the supposed case can never arise, and in this denial they persist.' *Rustice* (like Gr. ἀγροίκως for ἀμαθῶς, ἀμούσως) 'awkardly,' 'illiterately,' the opposite of *urbane*. On *urguent* which is usually said of the aggressor, cp. de fin. IV § 77 *urguent tamen et nihil remittunt*, de orat. I § 42 *urgerent philosophorum greges, instaret Academia.*

l. 15. **hoc verbum quid valeat**] 'what is the force of the expression 'if possible'' (*si posset, quidnam facerent*). Cp. de Fin. II 13 *quaerimus verbum Latinum par Graeco et quod idem valeat*, Tusc. V § 24 *quae dixit, idem valent.*

l. 18. **tamquam tormenta quaedam adhibemus**] 'we put them as it were on the rack,' i.e. we apply a sort of test, to extract their real sentiments. Cp. Plato Laches 188 A τὸ βασανίζειν οὐ πρότερον ἀφήσει Σωκράτης, πρὶν ἂν βασανίσῃ ταῦτα.

l. 20. **fateantur**]=cogantur fateri.

CHAPTER X

§ **40**, l. 23. **incidunt**] 'happen,' § 50 l. 4, I § 31 *incidunt saepe tempora*. **multae saepe**] § 74 n., II § 20, Horace sat. I 6, 10 *multos saepe viros nullis maioribus ortos et vixisse pios cet.*

quae conturbent] consecutive subjunctive, 'of a nature to perplex, confuse,' I § 31.

l. 24. **cum**] for *in quibus*.

relinquenda sit] 'is to be sacrificed,' § 35.

l. 26. **id quidem improbum est**] 'that certainly were (would be) wrong.' Zumpt Gr. § 520, Madvig § 348 e *obs*. 1, Roby Gr. II 1535, § 90 l. 2 *nefas est*, Mayor n. to Philipp. 2 § 27 l. 15 *longum est*.

P. 18, l. 1. **cum—imperium abrogabat**] 'when...he deposed him from his consular command,' 'prevailed on him to resign' according to Livy II 2. For the mood see Publ. Sch. Gr. § 433.

Collatino] According to the story retailed by Livy and Dionysius L. Tarquinius Collatinus, the husband of Lucretia, was one of the two first consuls with Brutus, and was afterwards exiled on account of his relationship to the Tarquins, for he was the son of Egerius and grandson of Aruns, the brother of Tarquinius Priscus (Liv. I 57), and because he was suspected of disaffection to the popular cause by his voting for restoring their property to the Tarquins, and endeavouring to screen his nephews the Aquilii from punishment, when they were found guilty of conspiracy: see Dionys. Halicarn. V p. 221, Livy II 2.

Brutus] Lucius Iunius Brutus, who was consul, first with Collatinus, afterwards with Valerius Publicola.

l. 2. **poterat videri facere id cet.**] 'he might seem to have done so with injustice,' I § 4, III § 31 l. 7.

in regibus expellendis] 'in the expulsion of the royal family,' i.e. *L. Tarquinio superbo cum scelerata coniuge et omni liberorum stirpe* Liv. I 59, cp. ib. II 2 *eiecisti reges*, 4 *quibus regum asportarent res*, 15 *non recipi reges*. Zumpt Gr. § 377.

l. 4. **cognationem**]=cognatos.

l. 5. **regni**] i.e. regii imperii, 'of kingly government.'

l. 6. **patriae consulere**] in apposition to *quod* and *id*.

ita—ut] I § 88, II § 43, § 64, Kenn. Gr. 453, Hand Tursell. III p. 472.

l. 8. sine qua cet.] 'without which there could not have been any expediency either.' On **ne—quidem** 'not either,' 'no more,' see § 16 l. 3 n.

§ 41, l. 10. in eo rege] 'in the case of Romulus, not so (i.e. *non item valuit utilitas propter honestatem*), for it was a bare show of expediency which moved his feelings.' Cp. II § 27 *in illo*. *Pepulit*= impulit, commovit: so Hor. Sat. II 6, 98 *haec ubi dicta agrestem pepulere*.

l. 12. solum] sc. *se*. Cp. *licet...prodesse multis beneficia petentem* II § 67, Madvig Gr. § 393.

l. 13. omisit—neque erat] 'he set aside, disregarded fraternal affection as well as the tie of humanity in order to attain what seemed an advantage, and yet was not such.' *Neque* in the sense of *neque vero* (*tamen*), cp. de am. § 82 *omnia alter pro altero suscipiet*, *neque quicquam umquam nisi honestum alter ab altero postulabit*.

l. 14. muri causam opposuit] sc. *crimini*, 'opposed to his accusers (i.e. alleged in his defence) the excuse of the wall, a mere specious appearance of what was right, one as unlikely as it was certainly inadequate for his purpose.' Cp. ad Quint. fr. II 10, I *opposuisti semel ἀναντίλεκτον causam, Ciceronis nostri valetudinem*. On the genitive of definition *muri* see I § 152, II § 16 and Philipp. II § 78 l. 18 *causam amoris* ('the motive of passion') with Prof. Mayor's note. The allusion is to the story of Romulus killing his brother Remus, for leaping over the newly-built wall of Rome.

§ 42, l. 16. pace—dixerim] 'with his leave I would say it, whether he is Quirinus or Romulus,' i.e. god or man. Romulus was deified under the name *Quirinus*, Hor. Od. III 3, 16 *hac* (*arte*) *Quirinus Martis equis Acheronta fugit*. Beier remarks 'observatur Ciceronem, dum iram populi deprecetur eiusque pacem i.e. veniam ac favorem pacati propitiique numinis precibus exposcat, tanto magis fictam eius divinitatem ridere.' On the potential use of the pure conjunctive see I § 75, Kenn. Gr. p. 338, Madvig Gr. § 350 b. Cp. de leg. III § 29 *ille vero, pace tua dixerim, non modo censores sed etiam iudices potest defatigare*, Tusc. V § 12 *Bruti iudicium, pace tua dixerim, longe antepono tuo*.

l. 18. omittendae] i.q. *reliquendae* § 34.

l. 19. **cum egeamus**] § 40 l. 23, § 50 l. 5.

suae cuique utilitati] 'his own particular advantage.' Cp. II § 78 *suae cuiusque rei.* In this phrase *cuique* agrees with *utilitati.*

l. 19. **quod—fiat**] 'so far as may be done,' cp. § 34 *quod probaretur*, § 59 *quod sciam*, restrictive subjunctive, Madvig § 364 obs. 2, Roby Gr. II 1692, Zumpt Gr. § 559.

l. 21. **scite**] sc. *dixit*, II § 99.

Chrysippus] Chrysippus, the third head of the Stoic sect after Zeno, was a pupil of Cleanthes, whom he immediately succeeded, born at Soli B.C. 250, died B.C. 208. It was commonly said of him *εἰ μὴ ἦν Χρύσιππος, οὐκ ἂν ἦν Στοά*, 'if Chrysippus had not lived, the Porch would not have existed,' because he was the first who based the Stoic doctrines on a plausible system of reasoning, and successfully opposed those who dissented from it. Diog. Laert. VII 183. He is pronounced by Cicero (de nat. deor. III § 25) *homo sine dubio versutus et callidus*, and (Tusc. I § 108) *in omni historia curiosus.* He was in great repute for his logic.

stadium currit] i.q. in stadio decurrit, Zumpt Gr. § 384. Heine compares de fin. II § 112 *Xerxes cum—Hellesponto iuncto, Athone perfosso, maria ambulavisset, terram navigasset.*

P. 19, l. 1. **supplantare**] = *pedem supponere*, *ὑποσκελίζειν*, 'to trip up.'

§ 43, l. 4. **perturbantur**] 'suffer from disturbing causes.' **in amicitiis**] 'in the case of friendships,' § 41 l. 10.

l. 9. **numquam anteponenda**] haec amico condonare debemus (*Zumpt*).

l. 11. **ne si iudex quidem erit**] h.e. *ne tum quidem si de ipsius amici capite iudex erit.*

l. 12. **ponit**]=deponit, 'lays aside,' Tusc. I § 25 *cum posui librum.* **personam**] 'character,' I § 97, § 107, § 115.

l. 13. **tantum**] 'only so much,' 'so much and no more.' **dabit**] = tribuet, concedet, § 33 l. 12. *Ut—ut* both depend upon *tantum.*

veram] i.q. iustam: a frequent sense of *verus*, as in Caesar B. G. IV 8, Hor. epist. I 7, 98 *metiri se quemque suo modulo ac pede verum est.*

l. 14. **orandae litis**]=causae dicendae, 'for pleading his cause.' According to the *lex Pompeia iudiciaria* (B.C. 51) 'uno die atque eodem et ab accusatore et ab reo perorandum ita ut duae horae accusatori, tres reo darentur,' Asconius p. 86, ed. Manut. *Tempus*, however, here

refers probably as well to the day on which the trial should be held, which the judge could fix by *dilatio*, *ampliatio*, as to the length of time allowed for speaking.

quoad per leges liceat] § 33 l. 11 *sin hoc non licet per Cratippum.*

l. 15. accommodet] sc. *amico*, 'make convenient to.'

§ **44, l. 15. cum vero iurato sententia dicenda erit]** 'but, inasmuch as he has to pronounce sentence upon his oath, he will bear in mind that he has the deity to witness, that is, as I understand the case, his own conscience.'

l. 17. mentem suam] de rep. VI § 26 *mens cuiusque is est quisque; non ea figura, quae digito demonstrari potest, deum te igitur scito esse;* Plato de leg. X p. 897 B *ψυχὴ...νοῦν μὲν προσλαμβάνουσα ἀεὶ θεὸν θεὸς οὖσα, ὀρθὰ καὶ εὐδαίμονα παιδαγωγεῖ πάντα.* The soul of man, according to the theory of the Stoics, was a part of the *anima mundi*, Epictet. diss. I 14, 6 *αἱ ψυχαὶ συναφεῖς τῷ θεῷ ἅτε αὐτοῦ μόρια οὖσαι καὶ ἀποσπάσματα.* The passage reminds us particularly of the saying of Heraclitus, *ἦθος ἑκάστῳ δαίμων.*

divinius] de fin. V § 38 *qua* (ratione) *nihil est in homine divinius.*

l. 18. itaque praeclarum cet.] 'in this view, that is a noble custom which our forefathers introduced (did we but observe it strictly), that the parties, when they entreat of the judge a favour, make use of the words 'so far as he can do it without a breach of honour'.'

l. 19. si eum teneremus]=*si modo enim teneremus morem*...'if only we observed it strictly': cp. pro Flacco VII § 15 *o morem praeclarum disciplinamque quam maioribus accepimus, si quidem teneremus! sed nescio quomodo iam de manibus elabitur.*

quae salva fide facere possit] 'what he can do without hurting his conscience.' These words belonged to the prescribed formula, with which the parties to a suit called upon the judges, taken according to arrangement with the praetor, to decide their suit righteously and conscientiously.

l. 22. non amicitiae tales] 'such (friendships) must not be considered friendships,' § 6, Zumpt Gr. § 372.

§ **45, l. 24. communibus]** i.q. *vulgaribus*, 'ordinary, everyday,' § 17.

l. 25. in sapientibus—tale] 'in the case of wise, that is, perfect men, there cannot be anything of the kind,' cp. de am. § 38 *quod si rectum statuerimus vel concedere amicis quidquid velint, vel impetrare ab eis*

quidquid velimus; perfecta quidem sapientia si simus, nihil habeat res viti, i.e. 'if we had the ideal wisdom of the Stoics, there would be nothing wrong in it.'

P. 20, l. 1. Damonem et Phintiam cet.] Tusc. v § 63 *quantopere vero* (Dionysius) *amicitias desideraret, quarum infidelitatem extimescebat, declaravit in Pythagoreis duobus illis, quorum cum alterum vadem mortis accepisset, alter, ut vadem suum liberaret, praesto fuisset ad horam mortis destinatam, 'Utinam ego' inquit 'tertius vobis amicus adscriberer.'* Cicero seems to have taken his account of Damon and Phintias from Timaeus ap. Diodor. Sicul. VI 243 (Tom. II. p. 554 f. ed. Wesseling):

Διονυσίου τυραννεύοντος Φιντίας τις Πυθαγόρειος, ἐπιβεβουλευκὼς τῷ τυράννῳ, μέλλων δὲ τῆς τιμωρίας τυγχάνειν, ᾐτήσατο παρὰ τοῦ Διονυσίου χρόνον εἰς τὸ περὶ τῶν ἰδίων πρότερον ἃ βούλεται διοικῆσαι, δώσειν δ' ἔφησεν ἐγγυητὴν τοῦ θανάτου φίλων ἕνα· τοῦ δὲ δυνάστου θαυμάσαντος εἰ τοιοῦτός ἐστι φίλος, ὃς ἑαυτὸν εἰς τὴν εἱρκτὴν ἀντ' ἐκείνου παραδώσει, προεκαλέσατό τινα τῶν γνωρίμων ὁ Φιντίας, Δάμωνα ὄνομα, Πυθαγόρειον φιλόσοφον, ὃς οὐδὲ διστάσας ἔγγυος εὐθὺς ἐγενήθη θανάτου· τινὲς μὲν οὖν ἐπῄνουν τὴν ὑπερβολὴν τῆς πρὸς τοὺς φίλους εὐνοίας, τινὲς δὲ τοῦ ἐγγύου προπέτειαν καὶ μανίαν κατεγίγνωσκον· πρὸς δὲ τὴν τεταγμένην ὥραν ἅπας ὁ δῆμος συνέδραμεν, καραδοκῶν εἰ φυλάξει τὴν πίστιν ὁ καταστήσας· ἤδη δὲ τῆς ὥρας συγκλειούσης, πάντες μὲν ἀπεγίνωσκον ('began to despair')· *ὁ δὲ Φιντίας ἀνελπίστως ἐπὶ τῆς ἐσχάτης τοῦ χρόνου ῥοπῆς δρομαῖος ἦλθε, τοῦ Δάμωνος ἀπαγομένου πρὸς τὴν ἀνάγκην. θαυμαστῆς δὲ τῆς φιλίας φανείσης ἅπασιν, ἀπέλυσεν ὁ Διονύσιος τῆς τιμωρίας τὸν ἐγκαλούμενον καὶ παρεκάλεσε τοὺς ἄνδρας τρίτον ἑαυτὸν εἰς τὴν φιλίαν προσλαβέσθαι.*

The true version (as Cobet was the first to point out in his *Collectanea Critica* p. 431 ff.) is doubtless that given in Iamblichus (life of Pythagoras c. 33 § 234 sq. ed. Kiessling) from Aristoxenus, who heard the story from Dionysius himself.

From this account it appears that the whole proceeding was devised as a joke for the purpose of testing the constancy of Phintias and Damon's friendship. Cobet adds significantly '*et c'est pourtant ainsi que l'on écrit l'histoire.*' Other writers (as Polyaenus V 2 § 22) name the two friends Euphantos and Eukritos, others again Moiros and Selinuntios, and the story is told of the younger as well as the elder Dionysius and also of Phalaris, II § 26, Hyginus fab. 257.

l. 4. commendandorum] 'of commending to the protection of

others,' as being himself about to die, de fin. III § 65 *commendationes morientium*.

vas factus sit eius sistendi] 'became bail for his appearance in court.' The singular *vas* is generally used of the person, the plural *vades* of the thing, the verb is *vadari*, 'to take bail from,' hence 'to summon.' *Sistere*, 'to cause to appear in court,' is a legal term. On the attraction of the object of the gerund with the genitive see Roby Gr. II 1396 and pref. p. lxviii.

l. 5. ut] 'on condition that,' § 99 l. 1.

non revertisset] For the tense in future condition in repeated speech, see Roby L. Gr. § 1750.

l. 6. ipsi] dative of the agent with gerundive, P. S. Gr. § 222, Roby § 1146.

ad diem] sc. constitutum, *ad horam mortis destinatam*, Tusc. *l. c.*

§ 46, l. 8. igitur] 'well then,' sums up and repeats the observation of § 43.

l. 9. comparatur] 'comes into competition' or 'conflict with,' II § 88 *utilitatum comparatio*.

iaceat utilitatis species] 'let the apparent expediency be disregarded,' cp. § 79 l. 3, § 118 l. 25.

l. 10. cum postulabuntur—anteponatur] The future in *cum* clause because futurity is implied by the subjunctive *anteponatur*, cf. II § 43 *qui gloriam adipisci volet, officiis fungatur*.

l. 11. religio et fides anteponatur amicitiae] 'let scrupulous regard for duty and conscience take precedence of friendship.' The predicate is in the singular, because the two subjects are considered collectively as a whole, P. S. Gr. § 121 A (2), Madvig Gr. § 213 a, cp. I § 81.

l. 12. dilectus] I § 45.

CHAPTER XI

l. 14. specie] causal ablative.

in republica] 'in affairs of state.'

l. 15. in Corinthi disturbatione] 'with reference to, in the case of, the demolition of Corinth.' Cp. I § 35 where Cicero passes the same judgment, confirmed by Grotius de iure belli III xii 1, 2, 3.

nostri] sc. *peccaverunt* or *fecerunt*, Madvig Gr. § 478 *obs.* 3, § 19.

durius] sc. *fecerunt*, P. S. Gr. p. 346. Cf. I § 84.

l. 16. sciverunt] = *iusserunt*. Sciscunt qui communi consensu decernunt, unde plebiscitum dicitur (*Zumpt*).

Aeginetis] Aelian var. hist. II 9 *οἷα ἐψηφίσαντο Ἀθηναῖοι—καὶ ταῦτα ἐν δημοκρατίᾳ, Αἰγινητῶν μὲν ἑκάστου τὸν μέγαν ἀποκόψαι τῆς χειρὸς δάκτυλον τῆς δεξιᾶς, ἵνα δόρυ μὲν βαστάζειν μὴ δύνωνται κώπην δὲ ἐλαύνειν δύνωνται.* The decree must have been passed on occasion either of the subjection of Aegina (B.C. 456) or of the expulsion of the Aeginetans (B.C. 431): but neither Thucydides (I 108, II 27) nor Diodorus (XI 76, XII 44) refer to any such decree. Aegina, anciently called *Oenone*, was an island in the *Sinus Saronicus* (the modern gulf of Engia), close to the Piraeus. Hence Pericles said that it must be destroyed, because it was *λήμη τοῦ Πειραιῶς*, i.e. 'an eyesore to the Piraeus' (Plutarch Pericl. c. 8). Its Dorian inhabitants were expelled and allowed by the Spartans to settle in Cynuria, but were restored by Lysander in B.C. 404 [Xen. *Hell.* II 2, 5—9].

§ **47, l. 20. male etiam**] sc. *faciunt*, as l. 15 *durius Athenienses*.

l. 21. urbibus uti] 'to have the advantage of cities,' i.e. to settle there and carry on their business, as in a fixed home, I § 135. The more usual construction of verbs such as *prohibeo* is with *quin* or *quominus*, followed by the conjunctive, II § 8, Zumpt Gr. § 544, Madvig Gr. § 375 a *obs.* 2. The practice of *ξενηλασία* or 'alien acts' was generally condemned amongst the ancients, the Spartans were very exclusive in this respect, see Her. IX 35, Thucyd. I 144, II 39, Arist. Pax 624, Xen. rep. Lac. 14; and cp. Liv. XLI 24 where the decree of the Achaeans excluding the Macedonians is called *execrabilis desertio iuris humani*.

l. 22. Pennus] sc. *prohibuit usu urbis*. M. Junius Pennus, tribune of the Commons B.C. 126. See Brut. § 109 M. Pennus *facile agitavit in tribunatu C. Gracchum paullum aetate antecedens. Fuit enim M. Lepido et L. Oreste coss.* (B.C. 125) *quaestor Gracchus, tribunus Pennus, illius M. filius, qui cum Q. Aelio consul fuit: sed is omnia summa sperans aedilitius est mortuus.* Plutarch (C. Gracch. c. 3) compared with A. Gellius (XV 12) furnishes a comment on this passage. We have a notice of his law *de peregrinis* in Festus p. 286 *res publicas multarum civitatum pluraliter dixit C. Gracchus in ea quam conscripsit de lege Penni de peregrinis*. Beier conjectures that the name *Pennus* is a copyist's error for *Fannius*, to whom Cicero refers Brut. c. 26 *C. Fannii, C. F. qui consul cum Domitio* (B.C. 123) *fuit, oratio de sociis et nomine Latino contra Gracchum.*

Papius nuper] Gaius Papius was tribune of the Commons B.C. 65, when he revived the Act of Pennus. Dio Cass. 37, 9 *καὶ ἐν τούτῳ πάντες οἱ ἐν τῇ Ῥώμῃ διατρίβοντες πλὴν τῶν τὴν νῦν Ἰταλίαν οἰκούντων ἐξέπεσον Γαΐου τινος Παππίου δημάρχου γνώμῃ· ἐπειδὴ ἐπεπόλαζον καὶ οὐκ ἐδόκουν ἐπιτήδειοι σφίσιν εἶναι ξυνοικεῖν.* [Cp. or. pro Sest. § 30. J.E.B.M.]

nam—inhumanum est] *nam* really introduces the second clause of the sentence, II § 47, III § 84. 'For while it is quite proper that no one should be allowed to assume the privileges of a citizen, who is not a citizen, to exclude foreigners from dwelling in the city is clearly opposed to humanity.' **esse pro cive]** 'to be in the position of a citizen,' so as to have the *ius civitatis* and *suffragii*, to be eligible to office and inherit property—privileges denied to a *peregrinus*. At Athens a foreigner (*ξένος* or *μέτοικος*) who fraudulently assumed the rights of a citizen, was liable to a *ξενίας γραφή*, and, if convicted, sold into slavery.

l. 23. **quam legem tulerunt]** for *de qua re legem*, 'the law about which,' see Kühner Tusc. I § 45. L. Crassus is mentioned I § 108, II § 57, and Q. Mucius Scaevola I § 116, II § 47. They were colleagues in every office except the censorship. The law in question was entitled the *lex Licinia Mucia de civibus redigundis* and passed B.C. 95. Its enactment was the cause of great grievance to the Italian allies, and partly led to the Social War, which broke out three years afterwards. Asconius in Cic. Cornel. p. 67 Orell. *L. Licinius Crassus orator et Q. Mucius Scaevola P. M. legem de regendis in sua civitate sociis in suo consulatu tulerunt. Cum enim summa cupiditate civitatis Romanae Italici populi tenerentur et ob id magna pars eorum pro civibus Romanis se gereret, necessaria lex visa est, ut in suae quisque civitatis ius redigeretur. Verum ea lege ita alienati animi sunt principum Italicorum populorum, ut ea vel maxima causa belli Italici, quod post triennium exortum est, fuerit.*

P. 21, l. 1. illa praeclara] sc. *sunt*. Cf. I § 38.

l. 3. **cum saepe tum cet.]** The interpolated MSS add *alias* after *saepe*, II § 20, but the omission is more idiomatic. So § 86, de fin. I 6 *cum multa non probo, tum illud imprimis* for multa alia, Verr. IV 66 *cum multa, tum etiam hoc me memini dicere*, pro Cluent. § 140 *cum multorum tum hominis eloquentissimi auctoritatem*, § 167 *multa, tum etiam hoc.*

bello Punico secundo] Livy XXII 61, XXIII 13. After the battle of

Cannae (Liv. XXII 50) the consul Varro received the thanks of the Senate for not having despaired of his country. Later in the war, when Hannibal came nearly to the gates of Rome, the ground on which he had pitched his camp was sold for its full value.

l. 5. **rebus secundis**] abl. abs. or abl. of attendant circumstances with adjective as predicate, § 34 l. 26, cp. Tusc. III § 34 *consequitur ut—adversis casibus triplici consolatione sanetur.*

significatio] 'symptom,' 'indication,' I § 46.

l. 6. **tanta vis est honesti—obscuret**] 'such is the dazzling power of virtue, that it eclipses, throws into the shade, the semblance of advantage.'

§ 48, l. 7. **Athenienses**] in the second Persian invasion B.C. 480.

l. 8. **sustinere**] 'to bear up against,' 'brook.'

statuerentque ut] an unusual construction, *statuo* being generally followed by the infinitive: cp. ep. ad Att. 16, 10 *constitueram ut V Idus Aquini manerem*, de fin. V 1 *constituimus ut conficeremus*, Caesar B. Gall. I 34 *placuit Caesari ut mitteret.*

l. 9. **Troezene**] at Troezen (Gr. Τροιζήν), an ancient city of Argolis in the Peloponnesus, near Epidaurus, on the opposite coast of the *sinus Saronicus* to Athens. It was the birthplace of Theseus. For the allusion see Herod. VIII 41, Thucyd. I 18, 73, 74.

l. 10. **Cyrsilum**] Demosth. *de Cor.* § 204 *τὸν δ' ὑπακούειν τοῖς ἐπιταττομένοις ἀποφηνάμενον Κυρσίλον καταλιθώσαντες οὐ μόνον αὐτὸν ἀλλὰ καὶ αἱ γυναῖκες αἱ ὑμέτεραι τὴν γυναῖκα αὐτοῦ.* The same story is told of Lykides B.C. 479, a member of the *βουλή* at Athens, by Herod. IX 5, because he advised his fellow-citizens to listen to the proposals of peace offered by Mardonius a year later.

l. 12. **lapidibus cooperuerunt**] i.q. *κατέλευσαν*, 'stoned to death,' cp. § 46 *lapidibus coopertus esset in foro.*

atque] Zumpt and Heine read *atqui*, but, as Lund remarks, 'nulla est oppositio, nulla assumptio refellendi causa sed explicatio simpliciter continuatur, cf. § 74.' Hand also (Tursell. I p. 495) pronounces *atque* to be required by the sense of the passage.

sequi] 'to have in view,' cf. § 52 l. 6.

l. 13. **nulla erat**]=omnino non erat, 'did not exist at all,' cp. § 59 l. 7, Catull. 8, 14 *cum rogaberis nulla*, Lucr. I 427 *si nullum foret*, Ter. Hec. 79 *nullus dixeris*, pro S. Rosc. § 128 *haec bona nulla in tabulas publicas redierunt*, Verr. II 17 *petatur hereditas quae nulla debetur in praedam praetoris*, ep. ad Att. XI 24 *Philotimus nullus venit.*

§ **49, l. 15. id sciri non opus esse**] sc. *publice*, 'that it was not desirable that it should be divulged.' Cp. § 115, de am. § 51 *atque haud sciam an ne opus quidem sit nihil umquam omnino deesse amicis*, and the Greek phrase *οὐδὲν ἔργον*. This meaning of *opus* is found also in a positive sentence, ad fam. I 9, 25 *legem curiatam consuli ferri opus esse, necesse non esse*.

l. 16. daret] 'should name,' 'appoint.' Cp. Liv. XXXI c. 50 *si aedilis qui pro se iuraret daret, datus qui iuraret pro fratre L. Val. Flaccus*.

l. 18. subducta] 'drawn ashore,' opp. to *deducta*, 'drawn down,' i.e. from the beach into the water. **ad Gytheum**] § 112. Gytheum was the naval station of Lacedaemon beyond the mouth of the Eurotas, see Liv. XXXIV 38, 1, Polyb. V 19 *ναύσταθμον τῶν Λακεδαιμονίων, ὃ καλεῖται μὲν Γύθιον, ἔχει δ' ἀσφαλῆ λιμένα, τῆς δὲ πόλεως* (Sparta) *ἀπέχει περὶ τριάκοντα στάδια*. The ordinary Greek form of the word is *Γύθειον*, which is spelt in Latin either Gytheum or Gythium, just as *'Αλεξανδρεία* becomes either Alexandrea or Alexandria. See Drakenb. on Liv. XXXI 43 § 5. Tolmides the Athenian general burnt the Lacedaemonian arsenal there, B.C. 455.

l. 21. magna expectatione] i.q. *cum magna exspectatio esset civium*, 'the expectation of his arrival being great,' 'amid the anxious expectation of all,' ablative of attendant circumstances with adjective as predicate, § 47 l. 5. See P. S. Gr. p. 399, Madvig Gr. § 277, Roby Gr. II 1240.

perutile esse consilium] Plut. Them. c. 20 *τῆς πράξεως ἣν διανοεῖται πράττειν ὁ Θεμιστοκλῆς, μηδεμίαν εἶναι μήτε λυσιτελεστέραν μήτ' ἀδικωτέραν*.

l. 24. que] 'but,' § 17 l. 25.

l. 25. auctore Aristide repudiaverunt] 'rejected at the instance of Aristides.' Plutarch [Them. c. 20] says that the proposal was to burn the Greek (not Spartan) fleet at Pagasae. Grote rejects the whole story.

melius hi] sc. *statuerunt*, § 46 l. 15.

l. 26. inmunes] literally, 'free from some duty' or 'public service' (*munus*) as from taxes, *ἀτελεῖς*. The Cilician pirates had been put down by Pompey and settled at Pompeiopolis and other places, but they renewed their lawless way of life during the civil wars, and Antony is said to have made alliance with some of them, to carry on the war with Brutus and Cassius.

socios] as e.g. the inhabitants of Marseilles (II § 28), King Deiotarus and others, who had supported Pompey and were made in consequence by Caesar's party to contribute to the Roman *vectigalia*, Philipp. II c. 37.

CHAPTER XII

P. 22, l. 1. maneat ergo] 'let it then be a settled point,' pro Milon. § 11 *quapropter hoc maneat in causa, iudices.*

l. 3. hoc ipsum, putare] a nomin. subst. 'this very thing, to think,' 'the mere act of thinking,' Gr. αὐτὸ τὸ ἡγεῖσθαι. II § 84 *ut hoc ipsum eum delectaret, peccare,* paradox. III § 20 *ipsum illud peccare, quoquo veteris, unum est.* Cp. de orat. I § 112, de fin. II § 43 with Madvig's note, Munro Lucr. I 331, Zumpt Gr. § 591.

§ 50, l. 4. incidunt] § 40. 'Proprie dicitur de rebus malis et infelicibus, Liv. I 58 *rem atrocem incidisse.*' RUHNKEN dictata ad Terent. Haut. 395.

l. 5. causae, cum videatur] 'cases of such a nature that it may seem,' not the potential but the consecutive use of the conjunctive, cp. § 40 l. 23, Zumpt Gr. § 577.

l. 6. ut] 'so that,' consecutive, expressing the result.

plane] 'completely,' 'irreconcileably.' **si—si**] § 30 l. 18.

l. 8. exempli gratia] used by Cicero only in combination with a predicate such as *afferre, proferre, nominare.* For a purely imaginary instance, not illustrative of an historical fact, he usually employs *verbi causa,* Tusc. I § 12 *miserum esse verbi causa Crassum.*

l. 9. frumenti numerum] 'stock of corn.' *Numerus* is said of things 'measured,' as well as things 'counted,' and generally of natural products. Cp. in Verr. II 72 *magnum numerum frumenti,* pro Planc. § 64 *frumenti...maximum numerum miseram,* Philipp. II § 66 *maximus vini numerus.* So in Greek πλῆθος οἴνου Dem. adv. Lacr. § 21 p. 929. Alexandria and Rhodes are chosen because they were the chief places for the corn trade, the one for Egypt, the granary of Italy and Greece, the other for Asia Minor. Strabo XVII 1 calls Alexandria μέγιστον ἐμπόριον τῆς οἰκουμένης.

in inopia] 'during a dearth.' *in* is frequently so used of the circumstances in which a person is placed, Roby Gr. II 1975. This case is discussed by Grotius, de iure belli II c. xii § 9, who decides differently from Cicero, and with Diogenes. See also Whewell *Elem. Mor.* Art. 716.

l. 11. solvisse] sc. *navem,* 'has set sail.'

l. 13. silentio] 'without telling others,' adverbial use of ablative. Zumpt Gr. § 472, P. S. Gr. p. 399, Madvig Gr. § 257 *obs.* 2, Roby Gr. II 1236. Cp. *ratione* II § 42, III § 55.

sapientem cet.] 'we are imagining the case of a virtuous and honest man,' i.e. *sapiens*, not in the highest sense of the word, but as an ordinary *vir honestus*.

l. 14. eius—qui celaturus non sit] 'of such a man—as would not conceal': subj. consecutive after *qui*. On the conditional use of the future participle see P. S. Gr. p. 485, Madvig Gr. § 348 *a*.

l. 16. dubitet an—non sit] almost 'is inclined to think it not base,' for *dubito an* implies an uncertainty which is almost an affirmation. Zumpt Gramm. § 354.

§ 51, l. 17. Diogeni] Diogenes Babylonius was a native of Seleucia in Babylonia, pupil of Chrysippus (*Chrysippi auditor*, de div. I § 6), and preceptor of Antipater of Tarsus. He was one of the three ambassadors (the other two being Karneades the Academic and Kritolaus the Peripatetic philosopher) from Athens to Rome (B.C. 156), who at the instance of Cato were required to withdraw in haste, lest the Roman youth should be spoiled through their philosophy, Tusc. IV § 5, Aulus Aellius VII 14, Pliny N. H. VII § 112. The visit of the three philosophers to Rome is remarkable as having done much to inspire the Romans with a taste for Greek literature.

l. 18. videri] sc. *rectum*, i.e. *placere*.

magno et gravi Stoico] II § 51 *gravissimo Stoicorum Panaetio*.

Antipatro] sc. *videtur* or *videntur*. Antipater of Tarsus was a pupil of Diogenes (de fin. I § 6), and master of Panaetius (*Panaetii magister*, de div. I § 6). He was a zealous opponent of the Academics, of whose dialectic, however, he had such a fear that he would never commit himself to a *viva voce* dispute with them, whence his nickname ὁ καλαμοβόας, 'the pen-shouter,' Acad. post. fr. 17, II §§ 17, 28, 109. His opinion rests here and in § 91 on the claims of moral law, to which the maxim, that each person is a member of the community and must not do anything which is injurious to it, is referred, whereas Diogenes holds by commercial law. He was prior in age to the Antipater mentioned in II § 86.

l. 21. iure civili] 'the common law of the land,' i.q. *legibus populorum, quibus in singulis civitatibus res publica continetur* § 23.

l. 23. et...velle] 'if with the wish also.'

quoniam vendat] 'since he is the seller,' 'since he has on sale.'

quam optume]=*quam plurimo* 'as advantageously as he can,' 'for as much as he can get.' So *male emere* 'to make a bad purchase,' *care, vilissime vendere*, cp. § 61 l. 20 *ut emat melius*.

advexi cet.] 'I have brought my cargo, I have offered it for sale, I am selling no dearer than others, perhaps cheaper, as the supply is larger.' The merchant is supposed to be speaking *κατὰ προσωποποιΐαν*.

P. 23, l. 1. vendo] 'I have for sale,' § 55 l. 18, § 91 l. 13.

pluris—minoris] genitive of price, Zumpt Gr. § 445, Kenn. Gr. p. 416, Roby Gr. II 1186.

l. 2. cum maior est copia] sc. *venditorum*, i.e. 'when the market is overfull,' or, as Zumpt takes it, 'when I have a larger supply.'

§ 52, l. 3. ratio] i.q. *argumentatio*.

l. 4. hominibus consulere] § 27.

l. 5. ea—principia naturae ut]=*prima naturae*, *τὰ πρῶτα κατὰ φύσιν*, I §§ 11—12, 153, 'such innate, natural principles, which you are bound to obey and follow, that your interest should be the interest of the community and *vice versa*.' So *principia iuris* de leg. I § 18.

l. 6. sequi] § 48 l. 12.

ut utilitas cet.] cp. M. Anton. V. 22 *ὃ τῇ πόλει οὐκ ἔστι βλαβερόν, οὐδὲ τὸν πολίτην βλάπτει*.

l. 8. quid commoditatis]=*quid commodi*.

adsit] 'is nigh at hand.'

l. 9. aliud est celare, aliud tacere] 'it is one thing to conceal, another not to tell.' He makes a distinction between positive concealment of a fact when questions are asked, and keeping silence on a matter on which no questions are asked.

l. 10. si tibi non dico cet.] An evident fallacy, and mere sophism.

l. 11. quae—cognita] i.e. *si cognita essent*, 'the knowledge of which.'

l. 12. vilitas] sc. *cognita*, 'the knowledge of the cheapness,' Gr. *εὐωνία*.

l. 13. id mihi dicere necesse est] For the use of the dative in this construction instead of the usual accusative, cp. Liv. XXI 44 § 8 *illis timidis et ignavis esse licet, vobis necesse est fortibus viris esse*, below § 112 l. 21 *cur sibi causa desistere necesse esset*, pro Cluent. § 43 *et huic accusari et illi condemnari necesse fuisse intellegetis*, Zumpt Gr. § 601.

§ 53, l. 13. immo vero] Gr. *μὲν οὖν*, 'nay rather.' Roby Gr. II § 251.

l. 14. si quidem] 'if indeed,' 'if that is to say,' I § 72.

l. 16. suum cuiusque] 'one's own,' 'private property.' A stereotyped phrase, and therefore used also in a negative clause, where otherwise *quisquam* might be expected: I § 21 *ex quo quia suum cuiusque fit*, de fin. III § 67 *sic in urbe mundove communi non adversatur ius, qui minus suum quidque cuiusque sit.*

l. 18. sed donandum] sc. *omne*, supplied from the negative *quicquam*, as is not uncommon.

CHAPTER XIII

l. 20. sed] = *sed hoc dici.*

ita expedire, ut—sit] 'that it is expedient without being morally wrong,' I § 88, II § 33, P. S. Gr. p. 453. The infinitive depends upon *dici*. Notice the change from the *recta* to the *obliqua oratio*, and cp. II § 18, III § 63, § 103.

l. 21. ea re, quia] = ideo quod.

§ 54, l. 22. vendat] i.q. *puta* eum vendere, 'suppose he has for sale,' § 74, Madvig Gr. § 352, Roby Gr. II 1552, P. S. Gr. § 217, Draeger hist. Synt. I p. 316. Cicero makes use of the same example de rep. III § 29.

quae norit] assimilated subjunctive.

l. 23. pestilentes] 'infectious,' 'unhealthy.' Pliny ep. VII 27 speaks of a house, the tenants of which were terrified to death by the apparition of a ghost, as *pestilens* i.e. 'subject to a nuisance.'

l. 24. apparere] 'are to be seen.'

l. 25. male materiatae] 'built of bad timber.' Vitruvius 5, 12 *eaque aedificia minime sunt materianda propter incendia. Sint* is not found in the MSS, which makes it probable that the clause *ignoretur —serpentes*, if not spurious, is to be transposed after *nemo sciat.*

ruinosae] 'in a dilapidated, tumble-down condition.' *Ruo* is properly 'to fall, topple over,' whence *ruina*, (1) 'a downfall,' (2) 'that which falls,' 'a breach.'

P. 24, l. 2. que] § 49 l. 24.

venditurum putarit] sc. si dixisset.

l. 3. aut] 'or at least.'

id fecerit] § 40 l. 2.

ille vero] i.e. *iniuste et improbe fecerit*, 'yes, he would.' On *vero* see n. to § 39 l. 7: it is most frequently found in affirmative answers in the way of assurance in Terence and Plautus, e.g. Eun. 390, Adelph.

648 DE. *an quicquam est amplius?* HE. *vero amplius.* Sometimes but rarely verum is so used, as Eun. 347, Madvig Gr. § 454.

§ 55, l. 5. **quid est enim aliud—si hoc non est]** II § 83, Verr. I § 28 *quid est quaeso, Metelle, iudicium corrumpere si hoc non est,* ib. III § 71 *quid est aliud capere conciliare pecunias, si hoc non est?* Translate: 'for to allow a purchaser to be precipitate (*ruere*) in concluding a bargain, and through a mistake to fall into very great harm, if this is not refusing to set a man right when he has lost his way (a thing scouted at Athens on pain of being publicly cursed), what else is?'

l. 6. **execrationibus publicis sanctum]** i.e. lege sacrata vetitum. *Sancire* is 'to enact' with the addition of a penalty in case of disobedience. Hence 'to prohibit under penalty' § 69. The law, which was traced back to Buzyges (see Schweighäuser n. to Herod. VII 231, Leutsch append. prov., Gott. I 61 ὁ γὰρ Βουζύγης Ἀθήνησιν ὁ τὸν ἱερὸν ἄροτον ἐπιτελῶν ἄλλα τε πολλὰ ἀρᾶται καὶ τοῖς μὴ κοινωνοῦσιν κατὰ τὸν βίον ὕδατος ἢ πυρὸς ἢ μὴ ὑποφαίνουσιν ὁδὸν πλανωμένοις), is quoted by Diphilus in the Parasite ap. Athenae. VI p. 238 (Meineke Com. IV 405), see I § 51 *homo qui erranti comiter monstrat viam.* Demosth. de f. l. p. 304 D. [Haupt would read *Buzygis* for *publicis*, Hermes V 37. J. E. B. M.]

l. 7. **ruere]** Ter. Haut. 369 *heus tu, vide sis nequid imprudens ruas.*

l. 8. **fraudem]** 'harm,' Virg. Aen. X 72 *quis deus in fraudem... egit?*

l. 9. **scientem]** the subject of the general inf., 'knowingly to lead another into error,' II § 67, Roby Gr. II 2304.

l. 11. **proscripsit]** § 66 l. 22, 'advertised for sale a thing which he did not like,' or (taking *quod* as a conjunction) 'his house, because he did not like it.' Ad fam. IX 25 § 3 *scriptum erat fundum Herculanensem a Q. Fadio fratre proscriptum esse. Proscribo* is 'to write down' the name of a thing on a tablet (*tabula* § 68, *tabula auctionaria* Cat. II § 18), called also *libellus, album* or *titulus,* Tibull. II 4, 54, Plin. ep. VII 11, 27 (whence *ire sub titulum=proscribi*), and placard it. Hence its meaning 'to proscribe.' See Merivale's n. to Sallust Catil. c. 20. *Inscribere venale* or *mercede* is used in the same sense, Plaut. Trinumm. I 2, 131 *aedes venales hasce inscribit litteris,* cp. Ter. Hautont. 144 *inscripsi illico aedes.*

l. 12. **villam—aedificatam]** sc. *vendo,* which was commonly omitted in such advertisements or proclamations: cp. de div. II § 84 *quidam in portu caricas Cauno advectas vendens 'Cauneas' clamitabat.*

l. 13. **fefellisse**] 'to have practised a deceit.'

l. 14. **ratione**] i.e. *recte*, sic ut vera ratio postulat, ergo secundum regulas architectonicas, I § 7, II § 42, pro Rosc. Am. § 132 *aptam et ratione dispositam villam*, Zumpt Gr. § 472 n.

multo minus] sc. *fefellerunt*, or *existimandi sunt fefellisse.*

l. 15. **ubi iudicium emptoris cet.**] 'where the buyer may exercise his own judgment, what fraud can there be in that case on the part of the seller?' Here again Diogenes holds by the letter of the law. It is a fundamental principle of Roman law that there be no outwitting, where the buyer has the opportunity of judging for himself. There is a statute (Digest. XVIII tit. I *de contr. empt.*) that *ea quae commendandi causa in condicionibus dicuntur, si palam appareant, venditorem non obligant* (i.e. do not oblige him to make good (*praestare*) his professions) *veluti si dicat 'servum speciosum,' 'domum bene aedificatam.'*

l. 16. **sin autem**] does not introduce an opposition to the foregoing supposition, but a conclusion based upon its adoption. Cp. § 65, de div. II § 18 *si enim scit, certe illud eveniet, sin certe eveniet, nulla fortuna est*, de nat. deor. III § 46 *quomodo autem potes, si Latonam deam putas, Hecatem non putare?—sin haec dea est, cur non Eumenides?*

dictum non omne praestandum est] 'not all which is said (in praise of an article of sale) is to be made good.' So *praestare fidem* 'to make good, i.e. to keep, one's word.'

l. 18. **est stultius**] 'would be more foolish,' § 40 l. 26.

l. 19. **quam vendat**] subj. in clause dependent on infinitive clause.

l. 21. **vendo**] § 51 l. I.

§ **56**, l. 26. **dissensio**] i.q. *discrepantia*, 'contrariety.'

quae diiudicanda sunt] 'but I must give my decision in these two cases, for it was not simply to raise the enquiry that I stated them, but to propound their solution.'

ut quaereremus] i.e. *ut inanem quaestionem institueremus, ipsam rem in ambiguo relinqueremus*, 'not for the mere sake of raising a question.' *Exponere* in opposition to *explicare*=proponere, 'to set forth,' Brut. § 164 *multa in illa oratione graviter, multa leviter, multa aspere, multa facete dicta sunt; plura etiam dicta quam scripta, quod ex quibusdam capitibus expositis nec* (=*nec tamen*, 'but not') *explicatis intellegi potest.* Cp. I § 83.

§ **57**, l. 27. **non igitur—nec—nec**] I § 66 *nulli neque homini neque etc.* II § 15 *non potuissent nec aedificari nec frequentari*, III § 102.

P. 25, l. 1. frumentarius] sub. *negotiator*.

l. 2. neque enim id est celare cet.] i.e. *celare non est reticere aliquid, qualecumque id est*, 'the truth is, this does not constitute concealment, namely, reticence with respect to any matter, whatever it is, but concealment consists in hiding something you know from others for the sake of your own advantage, when it is for their interest to know it.' Grotius l. c. II xii 9 determines that Cicero's rule holds good with regard only to points which affect the thing itself, as, for instance, if a house which is to be sold is unhealthy.

id est celare, quidquid reticeas] a kind of brachylogy for *celare est reticere aliquid, quidquid id est quod reticeas*.

l. 3. sed cum] i.e. *sed id est celare cum*.

l. 6. simplicis] 'open' (ἁπλοῦ), **ingenui**, 'frank,' **versuti**, 'one who twists and turns,' 'evasive,' **obscuri**, 'mysterious,' 'dark,' 'reserved' (Hor. Epist. I 18 l. 94 *saepe modestus occupat obscuri speciem*), **astuti**, 'crafty,' properly one who has acquired wisdom by intercourse with mankind, **malitiosi**, 'ill-designing' (see I 10 § 33 *malitiosa iuris interpretatione*), **callidi**, 'cunning,' from *calleo* II § 10, **veteratoris**, 'an old rogue,' I § 146, III § 11.

l. 9. inutile] an euphemism for *damnosum*, II § 49 *perniciosum et inutilem civem*. Comp. *non opus est* § 49.

vitiorum subire nomina] so *subire crimina, pericula, poenam* § 65 l. 15.

CHAPTER XIV

§ 58, l. 11. orationis vanitatem] i.e. 'positive falsehood,' I § 150 *nihil proficiant nisi admodum mentiantur, nec vero est quidquam turpius vanitate*, § 151 *multis sine vanitate impertiens*, Liv. XXXI 49 *quem percunctari posset senatus, quid praetor veri vanive referret*, XXXIV 12 *saepe vana pro veris maxime in bello valuisse*.

l. 12. nec infacetus] 'not without wit,' I § 103. A specimen of the wit of Canius is given by Cicero de orat. II § 280 *cum Scaurus accusaret Rutilium ambitus, cum ipse consul esset factus, ille repulsam tulisset, et in eius tabulis ostenderet litteras A. F. P. R. idque diceret esse 'actum fide P. Rutilii,' Rutilius autem, 'ante factum, post relatum,'* C. Canius *eques Romanus cum Rufo adesset, exclamat neutrum illis litteris declarari. 'Quid ergo?' inquit Scaurus.—'Aemilius fecit, plectitur Rutilius.'*

satis litteratus] i.e. mediocriter imbutus litteris, 'tolerably learned,' 'fairly well read.'

l. 14. **hortulos aliquos**] 'a small estate,' 'pleasure-grounds with house,' i.q. *villam* § 59 l. 30, in which sense it is used in the XII Tables. *Horti*, pl. 'a park' or pleasure-garden with statues etc., *hortus*, 'a kitchen-garden.' See Zumpt Gramm. § 96, Kenn. Gr. p. 128, Mayor Philipp. II § 68 l. 8, cp. Iuv. Sat. I 75. **aliquos**] 'some,' 'a,' without specifying any particular one.

l. 15. **interpellatoribus**] 'intruders,' 'troublesome visitors,' ep. ad fam. VI 18, 5 *in litteris sine ullo interpellatore versor.* Nägelsb. lat. St. p. 45.

l. 17. **argentariam faceret**] sc. rem, 'carried on the business of a money-changer' (ἀργυραμοιβός), Verr. V 59 § 155 *is, quem ille argentariam Lepti fecisse dicit. Facere* is often used in a similar way, thus *carnificinam, histrioniam, naviculariam, unguentariam, scripturam facere*, 'to be by trade a butcher, actor, shipmaster, perfumer, clerk.' The conjunctive *faceret* is difficult to explain: *qui* is probably = *quippe qui*, so that the sense is 'as might be expected from a money-changer,' or it may be used consecutively, as referring to a class, not an individual.

l. 18. **non habere**] sc. dixit.

uti] sc. *illis*, 'that his grounds were not for sale, but they might use them, if he liked, as his own.' Cp. Catull. X 32 *utor tam bene, quam mihi pararem.*

l. 19. **hominem**] for *eum*. Tusc. I § 49, V § 61, de orat. I § 27, § 239, de fin. V § 94.

in posterum diem] 'for the next day.'

l. 20. **promisisset**] sc. [se venturum] ad cenam, 'had accepted his invitation,' Plaut. Stich. IV 1, 9 *ad cenam alio promisi foras*, Menaechm. V 2, 43. The contrary was expressed by *renuntiare ad aliquem*, Plaut. Stich. IV 2, 19.

qui esset] = quippe qui esset, 'since he was,' expressing the reason why he was able to carry out his plan. Hor. Sat. I 3, 4 *Caesar qui cogere posset etc.*

ut argentarius] 'as being a banker,' 'as a banker might be expected to be.' So Tac. Germ. c. 22 *statim e somno...lavantur, saepius calida ut apud quos hiemps plurimum occupet*, Cic. Ac. pr. 2 § 98 *homo et acutus*, ut *Poenus, et valde studiosus*, de orat. I c. 38 *apud me, ut bonum iudicem, argumenta plus quam testes valent.* In these passages *ut* has a causal force, P. S. Gr. p. 311. It has also a modifying

or restrictive force, 'considered as being,' 'for,' de sen. § 12 *multae ut in homine Romano litterae*, i.e. 'for a Roman,' 'considering that he is a Roman,' de div. II § 30 *Democritus non inscite nugatur, ut physicus, quo genere nihil arrogantius*, i.e. 'for a natural philosopher,' Livy XXXII 33 *vir ut inter Aetolos facundus*, Nep. Epam. 5 *exercitatus in dicendo ut Thebanus*. So ὡς Soph. Oed. T. 1078 αὕτη δ' ἴσως, φρονεῖ γὰρ ὡς γυνὴ μέγα, i.e. 'she has a high spirit, like a woman'; but Thucydides IV 84, speaking of Brasidas, says that he spoke well ὡς Λακεδαιμόνιος 'for a Lacedaemonian,' the Lacedaemonians generally being no orators. So οἷα Soph. O. R. 763 ἄξιος γάρ, οἷ' ἀνὴρ δοῦλος, Thuc. II 5.

l. 24. tempori] i.q. *in tempore*, 'at the right time.'

adparatum] sc. *est*.

l. 25. pro se quisque] i.q. *pro suis quisque viribus, pro sua q. parte*, to be taken with *quod ceperat*, cp. de orat. I § 82 *pro se quisque quae poterat de officio et ratione oratoris disputabat*, Verg. Aen. XII 552 *pro se quisque viri summa nituntur opum vi*.

l. 26. quod ceperat] sub. *piscium*.

§ 59, l. 30. aquatio] sc. *piscium*, 'a place for the fish to get fresh water from' [or simply 'water,' in the sense in which fishermen use the word; *aquatio* for *aquae* as *notio* for *notae*, see § 111 l. 5. S.]

isti] sc. piscatores.

P. 26, l. 2. gravate] sub. *agit*, 'reluctantly,' § 46 l. 15, § 47 l. 20.

quid multa] sc. *dicam?* 'to cut the story short,' § 19. P. S. Gr. p. 346.

impetrat] sc. *Canius*.

l. 3. et emit instructos] sc. *hortos*, 'and he bought them with the furniture as they stood,' Nägelsb. lat. St. p. 95: see Zumpt Gr. § 717 on the repetition of the verb, and cp. I § 1 *disces—et disces quamdiu voles*.

l. 4. nomina facit] sc. Pythius. *Nomen* is used extensively in money transactions. It properly denotes the name of a person entered in a banker's or any other ledger: Asconius on Verr. I 10, 28 *tituli debitorum nomina dicuntur praesertim in iis debitis, in quibus hominum nomina scripta sunt, quibus pecuniae commodatae sunt.* Hence *nomina facere*, 'to make such entries' as creditor, 'to lend money,' e.g. Senec. de ben. I *nomina facturi in patrimonium debitoris inquirimus*, or as debtor 'to borrow it.' The debtor was said *nomina locare*, as in Phaedr. I 17. So a man is said to have money

in nominibus when it is owed him (Long, n. to Verres vol. I, p. 117) and *exigere nomina* when he 'calls in his debts,' and a debtor is said *nomina dissolvere*, *expedire*, when he 'pays his debts off.' Cic. pro Planc. c. 28, pro Rosc. com. c. 6. Heine takes Canius as the subject: in that case *nomina facit* must mean 'he borrows the money.'

l. 5. **scalmum nullum**] 'not a single rullock (or thole or peg to which the oar is fastened),' much less a boat.

l. 7. **quod eos nullos videret**] 'that he did not see them at all,' Zumpt Gr. § 430, pro Rosc. Am. § 128 *haec bona nulla in tabulas publicas redierunt*. Cp. § 48 l. 13.

l. 8. **quod sciam**] 'as far as I know,' cp. § 42, the restrictive use of the consecutive subjunctive. Cp. § 69 l. 13, ep. ad fam. IV 2 *quod commodo tuo fiat*.

l. 9. **mirabar quid accidisset**] 'I could not think what had happened.' So θαυμάζω Plat. Phaed. 97 A: see Nägelsbach lat. Stil. p. 285.

§ **60**, l. 10. **quid faceret**] 'what was he to do,' 'what should he do.' The dubitative conjunctive, § 68, Verg. Georg. IV 504, Cic. de or. III § 86 *quid faceret aliud*, P. S. Gr. p. 339, Madvig Gr. § 353.

l. 11. **Aquilius**] C. Aquilius Gallus, disciple of Q. Mucius Scaevola, Cicero's colleague in the praetorship B.C. 66, ad Att. I, I § I, or. pro Caecin. c. 27.

l. 12. **dolo malo**] 'criminal fraud,' de nat. deor. III § 74 *inde everriculum malitiarum omnium, iudicium de dolo malo quod C. Aquilius, familiaris noster, protulit; quem dolum idem Aquilius tum teneri putat, cum aliud sit simulatum, aliud actum.*

formulas] 'established forms' of legal procedure, under some one of which every action at law must be brought as in our law under the head (*formula*) of felony, larceny, arson, misdemeanour, &c.

Upon the suppression of certain sacramental forms called *legis actiones*, 'actions of the law,' by the *lex Aebutia* about B.C. 200 by reason of the excessive nicety of their technicalities, the formulary system took their place, though in certain other cases they were retained. The essential feature of this system consisted in a *formula*, which the praetor (*in iure*) prepared after hearing the parties to a suit, and which was remitted to the *iudex* to regulate his decision (*in iudicio*). All the formulae generally in use were to be found in the *album Praetoris*, and they were multiplied from time to time to suit the exigencies of particular cases. The three parts of the formula were

(1) the *demonstratio* (statement of facts, and ground of action), (2) *intentio* (plaintiff's claim, and the question for the decision of the *iudex*, and which might be modified with the words *quantum aequius melius sit*, or *ex fide bona*, binding the *iudex* to take the whole circumstances into equitable consideration), (3) *condemnatio*, which gave the *iudex* power to condemn or acquit the defendant, and which was usually qualified with a *taxatio*, restricting the amount of damages to be awarded by the *iudex* to a certain maximum, or *adiudicatio*, giving the *iudex* or *arbiter* power to adjudicate. We have the text of a formula given by Gaius (4, 47), in a case where Aulus Agerius sued Numerius Negidius for restoration of a silver table deposited with him and, failing restitution, for payment of damages:—

Octavius iudex esto; Quod Aulus Agerius apud Numerium Negidium mensam argenteam deposuit; qua de re agitur;

Quidquid ob eam rem N. Negidium A. Agerio dare facere oportet ex fide bona eius;

iudex N. Negidium A. Agerio condemnato, nisi restituat; si non paret, absolvito.

When the parties had appeared in court, the plaintiff declared his form of action (*editio actionis*), and applied to the magistrate for a formula (*actionis postulatio*). The magistrate or praetor appointed a *iudex* for the trial of the case, and delivered to him a formula determining the question to be decided. The delivery of the formula *cum iudicium accipitur* was the moment of the *litis contestatio*, which ended the proceedings *in iure*. Such formulae were those of Aquilius *de dolo malo* for the guidance of the *iudex* in a claim of restitution, where a fraud had been practised in a sale or some similar proceeding. The formulary system remained in force until the reign of Diocletian, A.D. 294. See Lord Mackenzie, *Studies in Roman Law*, p. 349 ff., Ramsay, *Rom. Antiq.* p. 278 ff., Gibbon's *Roman Empire*, ch. XLIV.

in quibus ipsis cet.] 'in regard to which being asked the meaning of *dolus malus* in them.'

l. 13. aliud simulatum, aliud actum] cp. de nat. deor. III § 74.

l. 14. luculente] 'neatly,' 'to the point,' § 102 l. 23.

ut] 'as might be expected,' § 58 l. 20 n.

l. 17. utile] § 57.

CHAPTER XV

§ 61, l. 19. omni vita] § 37 l. 9.

l. 20. simulatio dissimulatioque tollenda est] 'pretence and concealment should be done away with.'

ut emat melius] § 51 l. 23 n.

l. 22. legibus erat vindicatus] 'had been punished by the laws,' i.e. already before Aquilius' time.

l. 23. in tutela] 'in the case of wardship.' See Ramsay *Rom. Ant.* p. 254 f., and cp. pro Rosc. com. § 16 *si qua sunt iudicia summae existimationis et paene dicam capitis, tria haec sunt, fiduciae tutelae, societatis*, pro Caec. § 7, pro S. Rosc. Am. § 111. The MSS read *tutela*, which commentators explain as = *tutela male administrata*, comparing de nat. deor. III § 74 *inde tot iudicia de fide mala tutelae, mandati, fiduciae.* Müller follows the MSS comparing I § 21.

circumscriptio adulescentium] 'defrauding of minors,' Iuv. sat. X 222 *quot circumscripserit Hirrus pupillos*, XV 135 *pupillum ad iura vocantem circumscriptorem*, where see Professor Mayor's note.

l. 24. lege Plaetoria] This law (B.C. 192) first made a settled distinction between *minores* (those under 25 years of age) and *maiores*. Fraud upon the first was made punishable by a heavy fine and loss of honour (*infamia*); moreover for the protection of minors, it provided that contracts with them should not be held valid, unless by the advice of a *curator* appointed by the praetor. The statute allowed also complaints to be made by any one, not by those only who were aggrieved. Cp. de nat. deor. III § 74 *inde iudicium publicum rei privatae lege Plaetoria.* In Plautus Pseudolus I 3, 69 it is called the *lex quina vicenaria*: cp. Rudens V 3, 25 and see *Dict. of Antiqq.* s.v. *curator*.

sine lege iudiciis, in quibus additur cet.] i.e. *sine lege vindicatus erat iudiciis*, 'in forms of trials not resting on any statute,' i.e. as we should say 'in trials in equity.' By *iudicia* are meant *actiones honorariae, bonae fidei*, in contradiction to *actiones legitimae, stricti iuris*: they constituted the *aequum* or *ius honorarium* opposed to *ius civile* and corresponding to our equity law: see Maine *Ancient Law* p. 58 ff. 'Sine certa lege ad singulare quoddam genus causarum pertinente, in omnibus iudiciis, in quibus a praetore iudex dabatur cum

formula ut 'ex fide bona' iudicaret.' *Z.* They concerned cases of wardship, partnership, buying and selling, letting and hiring, trusts: *tutela*, *societas*, *emptio venditio*, *locatio conductio*, *fiduciae*. See Long Verres I p. 53.

l. 25. reliquorum iudiciorum] 'of the remaining cases of *iudicia bonae fidei*.'

haec verba excellunt] 'the following words are prominent.'

l. 26. in arbitrio rei ux.] 'in the case of arbitration about a wife's property.' On the disposal of the *dos* when a marriage was dissolved by death or divorce see Ramsay *Roman Antiqq.* p. 254 [p. 297 ed. of 1894]. Questions relating to the wife's property belonged to the *actiones bonae fidei*, and were decided before *arbitri*. The addition *quantum melius aequius* (an asyndeton for *quantum melius et aequius*) indicates the claim as one not fixed and settled, but dependent upon the arbiter's judgment. Cp. pro Rosc. com. § 12 *quaero, quid—ita arbitrum sumpseris, quantum aequius et melius sit dari repromittique, sic petieris*, Top. § 66 *in omnibus igitur eis iudiciis, in quibus 'ex fide bona' est additum, ubi vero etiam 'ut inter bonos bene agier,' imprimisque in arbitrio rei uxoriae, in quo est, 'quod eius melius aequius,' parati esse debent.* The difference between *iudicium* and *arbitrium* is given by Cicero pro Rosc. com. § 10 *iudicium est pecuniae certae, arbitrium incertae: ad iudicium hoc modo venimus, ut totam litem aut obtineamus aut amittamus: ad arbitrium hoc animo adimus, ut neque nihil neque tantum, quantum postulavimus, consequamur:* in trials before the praetor and *iudices* a fixed sum was claimed and the suit was lost if not allowed in full, but in cases of arbitration the sum demanded usually exceeded the sum awarded.

P. 27, l. 1. in fiducia] 'in the case of property alienated on condition of its being restored.' *Fiducia* was the term applied to a contract *de dominio revocabili*, when a man transferred his property to another on condition that it should be restored to him: the person to whom the property was so transferred was said *fiduciam accipere* (Top. § 42), and, if he did not restore it, was liable to an *actio fiduciae* or *fiduciaria*, pro Rosc. com. § 16, pro Caec. § 7, de nat. deor. III § 74 quoted on § 61 l. 23.

ut inter bonos] i.q. *tamquam inter bonos*, cp. § 70.

l. 4. malitiose] 'fraudulently.' I § 33 *malitiosa iuris interpretatione*, III § 57 l. 8, § 74 l. 5 *malitiosis blanditiis*.

dolus autem malus—continetur] 'criminal fraud consists in misrepresentation,' I § 158, § 160.

l. 6. rebus contrahendis] 'contracts,' I § 14, § 53. **omne]** 'entirely.'

l. 7. inlicitatorem] 'a sham purchaser' or 'puffer,' put up to bid against others and enhance the price of articles at a sale by auction.

qui contra se liceatur] 'to bid (deceitfully) against himself,' by making an offer so small as to depreciate the article and by this mock bidding to enable his friend (the actual purchaser) to get it at a low price. Zumpt reads with the cod. Bern. c. *qui—reliceatur*, i.e. 'a person to bid back or lower than some one has already bid, in order to produce the impression that the property is not worth what has been offered for it. But the verb *reliceri* does not occur elsewhere. Cf. Verr. III 148.

l. 8. apponet] 'will employ,' 'set to work,' a common meaning in the phrase *accusatorem apponere*, Verr. V 41, 108 *apponitur eis tamen accusator Naevius Turpio*, ib. IV 19, 40 *apponit de suis canibus quendam*.

uterque, si ad eloquendum venerit] 'if both of them (i.e. vendor and purchaser) come to naming the price.'

§ 62, l. 10. Scaevola] Q. Mucius Scaevola, the third of a distinguished family of lawyers, tribune B.C. 106, curule aedile B.C. 104, consul B.C. 95, proconsul of Asia and Pontifex Maximus. He lost his life in the Marian proscriptions B.C. 87. Cicero was his pupil or *auditor*, and speaks highly of his eloquence and knowledge of jurisprudence. See I § 116, II § 57 *homo omnium moderatissimus*, Lael. § 1 *quem unum nostrae civitatis et ingenio et iustitiae praestantissimum audeo dicere*. Cf. Brut. § 194, de Or. I § 189. On the use of *quidem* in confirmation of a previous statement see note to I § 37.

l. 11. emptor] 'a would-be purchaser,' § 55 l. 7. **ut sibi—semel indicaretur]** 'that the price of the estate should be stated once for all,' Plaut. Aul. II 8, 3 *venio ad macellum; rogito pisces: indicant caros*, Pers. IV 4, 26 *modo ut sciam quanti indicet*. Cp. pro Caec. § 16.

idque—ita fecisset] 'had accordingly done so,' i.e. *indicasset pretium*, I § 4. On the epexegetic addition of *ita* see Madvig's note on de fin. II § 17 who compares de fin. II § 28 *cur id non ita fit?* pro Mil. § 31 *si hoc nemo vestrum ita sentit*, de leg. II § 31 *neque vero hoc, quia sum ipse augur, ita sentio*, ad Att. XVI 9 *quod quidem ita credo*,

to which may be added pro Rosc. Am. § 26, pro Arch. § 11, Verr. II 62 § 152, de off. I § 92.

l. 12. **pluris aestimare**] sc. fundum.

addidit centum milia] sc. *sestertium*, 'gave him 100,000 sesterces over and above what he asked.'

l. 13. **nemo est qui cet.**] 'there is no one who can say this was not the action of a good man; they (the world in general) say it was not that of a wise man, any more than if he had parted with the property for a less price than he might have obtained for it.'

l. 14. **sapientis negant**] sc. *fuisse*.

ut si] i.q. *perinde quasi*.

l. 15. **haec igitur est illa pernicies**] 'this then is that pernicious doctrine.' Cp. § 34 l. 20 *negat ullam pestem maiorem in vitam hominum invasisse quam eorum opinionem cet.* On **alios—alios** cp. § 60, P. S. Gr. p. 314.

l. 17. **ex quo**] unde, ex quo errore. *H.* Cp. I § 21 *ex quo fit ut.*

nequiquam cet.] From the *Medea* of Ennius; the original is quoted at length by Cicero ep. ad fam. VII 6 *qui ipse sibi sapiens prodesse non quit, nequiquam sapit,* together with the corresponding line from the *Medea* II of Euripides μισῶ σοφιστήν, ὅστις οὐχ αὑτῷ σοφός, Plato Hipp. mai. p. 283 B πολλοῖς συνδοκεῖ, ὅτι τὸν σοφὸν αὑτῷ μάλιστα δεῖ σοφὸν εἶναι.

l. 18. **quiret**] for tense see § 13 l. 20 n. **si—conveniret**] 'if it were agreed upon between me and Ennius what was meant by the expression *prodesse*.' Cp. § 44 l. 19, Tusc. III § 46 *conveniret mihi cum Epicuro, si quid esset bonum conveniret.*

§ **63**, l. 19. **Hecatonem**] § 89.

l. 20. **video**] 'I read,' 'I see in the books,' cf. I § 90.

l. 21. **scripsit Q. Tuberoni**] 'dedicated to Tubero.' Q. Aelius Tubero, grandson of L. Aemilius Paulus and nephew to Scipio Africanus the younger, and a friend of Panaetius, was a devoted Stoic, Brut. § 117 *vita severus et congruens cum ea disciplina quam colebat, paulo etiam durior*, de orat. III § 87. He was praetor B.C. 123 after having failed in his candidateship B.C. 129 *propter perversam sapientiam in funere Africani* (Muren. § 75 f.).

l. 22. **nihil—facientem**] = ita ut nihil faciat. Translate: 'it is a wise man's duty to have regard to his private fortune, so that he do nothing (without doing anything) contrary to morals, laws and customs.' The participial construction represents a consecutive clause, P. S. Gr. p. 497.

l. 23. neque enim solum—civitatis] Notice the transition from the obliqua to the recta oratio, and cp. § 103, I § 158.

l. 25. facultates] 'means,' 'resources,' I § 9 *ad facultates rerum*.

huic] sc. *Hecatoni*.

P. 28, l. 2. etenim omnino tantum cet.] 'for he only professes that he will abstain from doing for his own gain just so much as is not lawful (and no more),' i.e. he will do everything not positively forbidden by law or custom to serve himself. Cp. I § 11. *Omnino*, 'thus much and no more,' is to be taken with *negat*.

l. 3. huic] 'to a man of such principles.' No great praise is due to him for he merely abstains from illegal action, no gratitude for he thereby avoids ill consequences to himself.

§ 64, l. 4. sed] = δ' οὖν, resumptive, 'be that as it may,' 'to return to him to my principal subject,' I § 24, § 105, Zumpt Gr. § 739, Madv. Gr. § 480.

l. 7. istum virum bonum] 'that good man whom I have just mentioned, who is now before you for your consideration': cp. Cat. I § 22 *utinam tibi istam mentem di immortales duint*, 'I wish the gods would give you such a mind as I have mentioned!', Hor. Epist. I 6, 67 *si quid novisti rectius istis, candidus imperti*, 'if you know anything more correct than what is before you,—candidly impart it.' See Donaldson Lat. Gr. p. 385.

l. 9. et] adversative, cp. § 17 l. 9 n.

CHAPTER XVI

§ 65, l. 11. ac—quidem] Transit oratio ad rem per singulas partes accuratius definiendam. Hand Tursell. I p. 502.

de iure praediorum] de eo quod iustum sit in vendendis praediis, id est, fundis villis domibus, 'concerning the right appertaining to estates.' *Praedium* was the general word for 'real property,' *praedium urbanum* being said of house property, *praedium rusticum* of landed property.

l. 13. cum ex duodecim tabulis cet.] 'whereas according to the XII Tables it was enough for such defects to be made good (§ 55), as are expressly declared, and any one who did not own these defects, when questioned by the purchaser, incurred a double penalty, men learned in the law have enacted a penalty also for reticence.'

According to Festus p. 173 ed. Müller s.v. *nuncupata* the law was: CVM NEXVM FACIET MANCIPIVMQVE, VTEI LINGVA NVNCVPASIT, ITA IVS ESTO.

l. 15. **iuris consultis**] less commonly *iure consultis*.

l. 16. **reticentiae**] 'reticence,' i.e. saying nothing about them, no questions having been asked by the purchaser. An *actio redhibitoria* might be brought against the seller in this case. Cf. § 67 l. 12, § 91 l. 17.

§ **66, l. 19. ut**] 'as for example,' 1 § 31.

in arce] i.e. the Capitol, which was used as an observatory by the augurs. Paulus Festi p. 18 *auguraculum appellabant antiqui, quam nos arcem dicimus, quod ibi augures publice auspicarentur.* As the augurs faced the east when they were engaged in their ceremonies (Liv. I 18), a house on the Caelian Hill might obstruct their view.

augurium acturi essent] 'were going to take an augury.'

l. 21. **demoliri ea**] i.e. *eam domus partem*, 'to pull down such parts of the building as by their height obstructed the augur's observations.'

l. 22. **proscripsit**] 'advertised for sale.' Heine and others regard *vendidit* as a gloss upon *proscripsit*, just as in § 55 there is in one MS a gloss *vendidit, exposuit* upon the same verb.

insulam] 'a detached house,' not joined to the neighbouring houses by a common wall (*quae non iungitur communibus parietibus cum vicinis circuituque cingitur* Festus s.v.), pro Cael. § 17, Philipp. X § 8. Such houses were mostly used as lodging-houses for poorer families, who lived on the several flats or stories.

l. 23. **illud idem**] 'that same notice was given, that had been given to Centumalus,' i.e. to pull part of it down.

P. 29, l. 2. arbitrum illum adegit] i.q. *illum adduxit ad arbitrum*, 'compelled him to go before an arbitrator,' or, as we say, brought the matter into a court of equity. So pro Rosc. com. § 25 *cur non arbitrum pro socio adegeris Q. Roscium, quaero*, Top. § 43. Cp. the expression *adigere aliquem iusiurandum*.

l. 3. **quidquid sibi—ex fide bona**] Respicit ad formulam stipulationis: *promittisne quidquid te dare facere oportet?* Respondebatur *promitto*. *H.* Hac stipulatione facta ad arbitrum veniebant, qui *ex fide bona* aestimato damno statueret, quid alter alteri daret faceretve. *Z.* The formula, which the Praetor gave to the appointed *arbiter* and instructed him on the question at issue, answered to the before-mentioned *quantum melius aequius*, that the complainant might not prefer a fixed

claim. The full form in an *actio aestimatoria* or *actio empti* would run thus: *M. Cato arbiter esto. Quod P. Calpurnius Lanarius aedes in Caelio monte sitas emit de T. Claudio Centumalo, quidquid ob eam rem T. Claudium P. Calpurnio dare facere oportet ex fide bona, eius T. Claudium P. Calpurnio condemna.*

l. 4. **M. Cato huius nostri Catonis pater**] i.e. M. Porcius Cato, father of Cato Uticensis, son of M. Porcius Cato Salonianus, and so grandson of Cato the Censor. He was *tribunus plebis* and died when a candidate for the Praetorship. A. Gell. XIII 19, 14 *is* M. Cato *tribunus plebis fuit et praeturam petens mortem obiit* (B.C. 91) *ex eoque natus est* M. Cato praetorius, *qui se bello civili Uticae interemit.* Plutarch Cat. min. 1—3, Valer. Max. I 2, 1. For the meaning of *huius* cp. I § 121 *filius Africani qui* hunc *Paulo natum adoptavit.*

sententiam dixit] 'pronounced a verdict,' as *arbiter.*

l. 6. **igitur**] 'then,' after a parenthesis, as I § 3, § 121, II § 9, III § 62, Zumpt Gramm. § 739.

l. 7. **et non pronuntiasset**] 'and yet had not given him notice of that circumstance,' viz. that the augurs required it to be pulled down.

l. 8. **emptori damnum praestari oportere**] 'that the loss ought to be made good to the purchaser,' cp. note § 55 l. 15, Wilkins on Cic. de or. I § 113.

§ 67, l. 10. **non recte—non recte**] anaphora instead of the sociative conjunction, see Kenn. p. 318, Roby II 1052, Madvig Gr. § 434 *obs.* 2.

l. 11. **frumentarius ille**] § 50. **aedium—venditor**] § 54.

l. 12. **reticentiae**] 'cases of reticence,' I § 78 *domesticae fortitudines.*

comprehendi] 'be comprised,' or 'laid hold of,' or. p. Mil. 72, Cael. 64.

l. 14. **tenentur**] 'such as fall under the penal law, are strictly punished.'

l. 15. **Gratidianus**] M. Marius Gratidianus § 80. He was the son or grandson of M. Gratidius of Arpinum (Brut. § 168), whose sister was married to Cicero's grandfather (de leg. III § 36), hence he calls him *propinquus* 'his kinsman.' He was adopted by M. Marius, a brother of the celebrated general of that name and therefore called Marius Gratidianus. Catiline murdered him in the Sullan proscriptions, after he had been twice praetor, according to Lucan II 175. The same case is quoted in the de oratore I § 178 *Quid? nuper, cum ego*

C. Sergii Oratae contra hunc nostrum Antonium iudicio privato causam defenderem, nonne omnis nostra in iure versata defensio est? Cum enim M. Marius Gratidianus *aedes Oratae vendidisset neque servire quamdam earum aedium partem in mancipi lege dixisset, defendebamus, quidquid fuisset incommodi in mancipio, id si venditor scisset neque declarasset, praestare debere.*

Sergio Oratae] C. Sergius Silus Orata was praetor B.C. 97; the name *Orata*, i.q. *Aurata* (Peile Gr. and Lat. Etym. p. 268), was given him because of his fondness for gold fish, Macrob. Saturn. III 15, 3 *huic opinioni M. Varro consentit adserens eodem modo Licinios appellatos Murenas, quo Sergius Orata cognominatus est, quod ei pisces qui auratae vocantur carissimi fuerint;* according to Festus p. 182 because he used to wear two large gold rings. He is mentioned in de fin. II § 70.

l. 17. **eae serviebant**] 'it (the house) was under a servitude.' A servitude is the liability of the property of one person to certain rights of another estate or person over it. *Servitus* means either the liability or the right to such a servitude. *Servitutes* were (1) praedial or real, (2) personal. Praedial servitudes were the liabilities of one estate or building (*res serviens* 'the servient tenement') to the superior rights of another estate or building (*res dominans* 'the dominant tenement'). They were divided into rural and urban; the former affecting the land itself, as the right of way, whether (*a*) footpath or bridle-road (*iter*), (*b*) carriage-road (*actus*), (*c*) highway (*via*), right of aqueduct (*aquaeductus*); the latter, attached to buildings raised on the soil, as on the part of the dominant tenement the servitude of support (*oneris ferendi*) giving a right to rest the building on part of the contiguous property, of fixing a joist or beam in a neighbour's wall (*ius tigni immittendi*), the liability to receive rain-water from roof or gutter (*ius stillicidii vel fluminis recipiendi*). Personal servitudes were those which were enjoyed immediately by a particular person, without being attached to an estate, whereas real servitudes are appurtenant to lands. The easements of the English law correspond in some respect with the servitudes of Roman law. See Lord Mackenzie *Studies in Roman Law* p. 183 ff., Ramsay *Roman Antiq.* p. 257.

in mancipio] sc. *faciendo*, 'in the conditions of sale,' de orat. I § 178 *in mancipii lege*, i.e. 'in the contract of sale.' By the Roman law 'ownership of property' (*dominium*) was acquired by individuals either *iure gentium* or *iure civili*, 'by the Quiritarian law of Rome.' In the

latter case by 1. *mancipatio*, 2. *in iure cessio*, 3. *traditio*, 4. *usucapio* (i.e. uninterrupted possession of a thing for one or two years), 5. *adiudicatio*, 6. *lex*. *Mancipatio* is thus defined by Gaius I 119: *est mancipatio imaginaria quaedam venditio—eaque res ita agitur: adhibitis non minus quam quinque testibus, civibus Romanis puberibus et praeterea alio eiusdem condicionis, qui libram aëneam teneat, qui appellatur libripens, is qui mancipio accipit rem tenens ita dicit:* Hunc ego hominem (vel hanc rem) ex iure Quiritium meum esse aio, isque mihi emptus est hoc aere aeneaque libra: *deinde aere* (i.e. nummo) *percutit libram, idque aes dat ei, a quo mancipio accipit, quasi pretii loco*. *Mancipium* means (1) the formal purchase *per aes et libram*, or (2) the property, right of absolute ownership, acquired by such purchase, so that he can alienate it at pleasure, especially a slave. Hence Lucretius III 971 says *vitaque* mancipio *nulli datur, omnibus usu*, i.e. nature gives none the *mancipium ex iure Quiritium*, the full and absolute ownership of life; she only lends it, keeping the *dominium* to herself. Cp. Horace Epist. II 2, 159—160 *si proprium est quod quis libra mercatur et aere, quaedam si credis consultis, mancipat* ('gives a title to') *usus* (i.q. *usucapio*).

By the ancient civil law things were divided into *res mancipi* and *res nec mancipi*, i.e. 'things which could,' and 'things which could not be acquired as absolute property.' To the former belonged lands, slaves, and ordinary beasts of burden, such as horses, oxen, mules, &c. Maine *Ancient Law* p. 277, Lord Mackenzie *Studies in Roman Law* p. 172, Ramsay *Rom. Antiq.* p. 258.

l. 19. Crassus] L. Licinius Crassus, I § 108, Wilkins Intr. to Cic. de orat. I p. 7.

Antonius] II § 49. He was an intimate friend of the father of Gratidianus, Brut. § 168.

l. 20. ius Crassus urguebat] 'Crassus laid stress on the law, that any defect not mentioned by the seller, though he knew it, ought to be made good: Antonius, on the equity of the case, that, inasmuch as the defect in question had not been unknown to Sergius, since he had before sold the house in question, there was no reason for its being specified (on occasion of the second transfer), and that the purchaser had not been imposed upon, since he knew very well to what his purchase was subject.'

quod viti] 'whatever defect,' I § 19, § 137, II § 86, de orat. I § 178 *quidquid incommodi*.

l. 23. nihil fuisse necesse dici] § 52 l. 13.

l. 24. quo iure esset] II § 27 *uno calamitatis iure*, I § 60 *in iure societatis humanae*. **teneret]** i.q. *sciret*.

§ 68. quorsus haec?] sc. *profero* or *pertinent*, 'what is the drift of these remarks? to make you understand that our ancestors did not like sharp practice.' de sen. § 42 *quorsus haec? ut intellegeretis*, Tusc. I § 60 *quorsus igitur haec spectat oratio?* de leg. I § 63 *quorsus hoc pertinet?*

CHAPTER XVII

P. 30, l. 2. quatenus manu tenere possunt] 'so far as they can actually lay hold of them,' that is, 'actual offences, overt acts.' Moral philosophy investigates the motives also and intentions, and by informing the judgment (*intellegentia*) and improving the reason (*ratio*) seeks to prevent their commission. Cp. Brut. § 277 *cum indicia mortis se comperisse manifeste et manu tenere diceret*.

l. 3. ergo] 'then,' I § 130. **ne quid insidiose]** sc. fiat, I § 82, § 127, § 156, II § 51, Kenn. Gr. p. 346.

l. 4. suntne igitur] *ne* is used in affirmation, with nearly the same force as nonne: cp. § 76, de nat. deor. III § 69 *videturne summa improbitate usus non sine summa esse ratione*, Tusc. II § 26 *videsne abundare me otio?* ib. § 50, § 53, de orat. II § 62 *videtisne, quantum munus sit oratoris historia?* pro Rosc. Am. § 113 *itane est?* Madvig Gr. § 451 a.

l. 5. excitaturus] sc. *feras*, 'to start from their lair,' **agitaturus** 'to hunt.'

l. 6. ipsae enim—plagam] 'yes, for of themselves, without any one to drive them, they often fall into a snare,' I § 77 *delapsa arma ipsa ceciderunt*. The singular *plaga*, which is of rare occurrence (Ovid ars am. III 428 *inque plagam nullo cervus agente venit*, Plin. n. h. XI § 83 *licet extrema haereat plaga, semper in medium currit*), is here probably used because of *tabula* by a kind of attraction.

l. 7. proscribas] 'would you advertise?' § 55 l. 11. Cp. II § 23 *habitent gratis in alieno*. The dubitative conjunctive, § 60 l. 10, P. S. Gr. p. 339, Zumpt Gr. § 530.

tabulam] sc. *auctionariam*, 'a notice of sale,' § 55.

l. 8. in eam] The words *domum propter vitia vendas* are probably a gloss, as *eam* refers to *plagam*.

§ **69, l. 9. hoc]** sc. *insidiae*. **depravationem consuetudinis]** 'degenerate public opinion.' § 105 l. 9.

l. 10. neque more turpe haberi neque aut lege sanciri aut iure civili] § 55 l. 6, 'is neither by custom accounted morally wrong nor forbidden either by statute or civil law.' For the meaning of *sancio* 'to enact a penalty against' cp. ep. ad Att. X 1 *Solon capite sanxit, si qui in seditione non alterius utrius partis fuisset*, i.e. 'made it a capital offence,' de leg. II § 22 *incestum pontifices supremo supplicio sanciunto. Lex* and *ius* are not opposed here as in I § 124, but by *ius* is rather meant the completion, which the science of law received through the *edicta praetorum*, as opposed to the common law. See I § 32 *pleraque iure praetorio liberantur, nonnulla legibus. Ius civile*=ius inter cives eiusdem civitatis, 'the law of the land,' as opposed to the *ius gentium* 'the law of nations,' which is identical with the *lex naturae*. See n. to § 23 l. 1.

l. 12. saepe dictum est] § 21, § 26, § 31, I § 50, § 53, § 149.

l. 13. quae pateat] consecutive subj. in restrictive sense, § 59 l. 8, Madvig Gr. § 364 *obs*. 1.

l. 14. interior] 'a closer tie,' interius etiam est eiusdem esse civitatis, I § 53, Nägelsb. lat. Stil. p. 187.

l. 17. non idem continuo] 'is not also necessarily,' 'it does not at once follow that it is,' § 36 l. 20 n. Because the civil law may add, though it can add nothing contrary to that fundamental law of nations, which is of universal applicability, and is independent of and superior to the law of any particular country. '*Continuo* indicat nexum rerum proximum aut necessarium, nulla conditione intercedente.' Tusc. III 3, 5 *cum—nec omnes, qui curari se passi sunt, continuo etiam convalescant*, ib. § 40 *si malo careat, continuone fruitur summo bono?* pro Rosc. Am. § 94 *non continuo, si me in gregem sicariorum contuli, sum sicarius*, de orat. I § 125, Hand Tursell. II p. 106.

l. 18. sed nos veri cet.] 'but we have not the real and life-like figure of true Law and genuine Justice; delineations and sketches are all we have; and I only wish we followed even these, such as they are, for they are taken from those excellent models presented by Nature and Truth.' The same metaphor, taken partly from sculpture, partly from painting, is used by Cicero Tusc. III § 3 *consectatur nullam eminentem effigiem virtutis sed adumbratam imaginem gloriae. Est enim gloria solida quaedam res et expressa, non adumbrata:* where, as in the passage before us, by *effigies* is meant 'the moulded form,' by

solidus is meant what is 'substantial,' 'tangible,' by *expressus*, 'that which is sharply delineated,' 'chiselled as by a sculptor' (Ac. Post. I § 27), and by *adumbrata imago*, the 'imperfect outline' (*σκιαγραφία*) of the future statue. Cf. or. p. Planc. § 29.

l. 19. germanae] 'genuine, real.' So Cic. Ac. 2 § 132 *germanissimus Stoicus*, 'a thorough, out-and-out Stoic,' ad Att. IV 5 *scio me asinum germanum fuisse*, Plaut. Mostell. I 1 40 *germana inluvies*.

l. 20. eas—utinam sequeremur] if we did but avail ourselves of true justice, we should regard all men as Brothers (I § 23, de fin. III § 64, § 67) and so make no distinction between *ius civile* and *ius gentium*.

ipsas] 'those only.'

l. 21. feruntur] short for *quae feruntur, ducuntur ex* etc.

naturae et veritatis exemplis] i.e. 'patterns which nature and truth afford,' *a vera lege, quae est recta ratio, naturae congruens* (Lactant. VI 8, 7 e l. III de rep.), *tamquam ab optimo exemplari*. *Exempla* here has the meaning of exemplaria, 'originals,' 'patterns,' 'models.' Cp. Liv. XXVI 41, 24 *ut, quemadmodum noscitatis in me patris patruique similitudinem oris voltusque et lineamenta corporis, ita ingeni, fidei virtutisque ad exemplum expressam effigiem vobis reddam* (according to the reading of Ruhnken), Plaut. Poenul. V 4, 183 *nam alios pictores nil moror huiusmodi tractare exempla*, Cic. de inv. II 1 *ut mutum in simulacrum ex animali exemplo veritas transferatur*.

P. 31, § 70, l. 1. quanti] sc. *facienda sunt*.

uti ne] = *ut non*, with something more of solemnity than *non*, Zumpt § 347, Roby § 1638.

uti ne propter te cet.—ut inter bonos cet.] Forms used in cases of trusteeship (*pactum fiduciae*, § 61): **fidem tuam**, 'trust in you,' see I § 139; so in the Litany of the Church Service, 'that it may please thee to rule her heart in thy faith, fear and love.' [Rather 'your guarantee.' *Müller*.]

l. 2. propter] for *per* 'through,' 'because of,' with persons always in the sense of *beneficio* or *culpa*.

l. 5. magna quaestio] 'a difficult question.'

Q. Scaevola] see § 62 l. 10 n.

l. 6. summam vim cet.] existimabat maximum ac difficillimum negotium agere iudicem, qui eiusmodi receperit arbitrium; multumque requiri ad id, ut recte pronuntiare queat aliquem praestitisse, quae ex fide bona praestanda fuerint. Vide supra § 61. *H.*

l. 7. **fidei bonae nomen—contineretur**] 'that the expression *bona fides* had an extensive application, being employed in cases of wardship partnerships, trusts commissions, purchases sales, hiring letting, which make up the system of social transactions.'

l. 8. **manare latissime**] = *patere latissime*, I § 4. Cp. II § 80. On the descriptive gen. **fidei nomen** cp. II § 2 *philosophiae nomen*, 'the word *philosophy*,' II Phil. § 113 *nomen pacis dulce est*, 'the word *peace* is sweet.'

tutelis—locatis] These words must be taken in pairs according to an usage frequently found in Cicero. See index s.v. 'pairs of words.'

l. 10. **contineretur**] For the meaning of *continere* see § 23 l. 23 n.

magni esse iudicis] 'that it required an able judge,' P. S. Gr. p. 413. [Dr Reid proposes *magni iudici*, as he thinks that Cicero would not have said *magnus iudex* in this sense.]

l. 11. **essent**] 'were possible.'

l. 12. **iudicia contraria**] not 'contrary decisions,' but opposed to *directa*, 'cross suits of each against the other,' the defendant putting in a counter plea (a plea in bar), that the plaintiff has not fulfilled his part of the joint engagement. It was competent for the *iudex* in *arbitriis bonae fidei* to entertain all exceptions and counter claims of the defendant founded on any violation of good faith, even though no mention was made of them in the *formula*, Gaius IV 61 f., Iust. Inst. IV 30, Lord Mackenzie *Studies in Roman Law* p. 366. These *iudicia contraria* might happen in any of the six cases just enumerated.

§ 71, l. 13. **astutiae**] 'practices of chicanery,' § 67 l. 12.

l. 14. **volt—videri se cet.**] 'desires that people should believe it to be wisdom.'

illa quidem] simply serve to emphasize the subject of the verb and to contrast it with what follows, I § 66, § 95.

l. 15. **prudentia**] Diogen. Laert. VII 92 *καὶ τὴν μὲν φρόνησιν (λέγουσιν οἱ Στωικοὶ) εἶναι ἐπιστήμην κακῶν καὶ ἀγαθῶν καὶ οὐδετέρων.*

est locata] 'has its proper place,' § 38.

l. 16. **malitia**] any legal trick by which the ends of justice were frustrated, though the letter of the law remained inviolate. Cp. Nat. d. III 75.

si mala sunt] sc. ut sunt.

l. 17. **ponit ante**] for *anteponit:* the anastrophe (not tmesis, Halm on Cic. pro Sull. § 25, Hand Tursell. I p. 366) gives greater

prominence to the meaning of *ante*, as in *i prae, sequor* for *praei, sequor:* it is of rare occurrence in prose writers, Nep. Alc. 8 *praeter arma et navis nihil erat super*, Cic. Brut. § 21 *faciam vobis satis*, ad Att. v 18, 4 *faciam tamen satis:* it must probably be regarded as an independent adverb, not preposition.

in] 'in the case of.'

l. 18. ductum a natura] 'derived from nature,' since l. 23 *iuris natura fons est*, I § 100 *officium quod ab eo* (decoro) *ducitur*.

vindicat] 'punishes,' I § 109.

l. 19. mancipiorum] 'slaves,' § 67 l. 17 n.

l. 20. excluditur] 'is prevented,' 'disallowed.'

de sanitate—praestat edicto aedilium] 'is bound to guarantee as to his healthiness, his aptness to run away or to steal, by the edict of the aediles,' who had the wardenship of the markets at Rome. Gell. IV 2 *in edicto aedilium curulium, qua parte de mancipiis vendundis cautum est, scriptum sic fuit: 'titulus scriptorum singulorum utei scriptus sit curato ita, utei intellegi recte possit, quid morbi uitiiue cuique sit, quis fugitiuus erroue sit noxaue solutus non sit.'* If a slave was guilty of *furtum*, it constituted an *obligatio ex delicto* against the master, and the person wronged might bring an *actio noxalis*. In this case the master might either abide the result of the suit, or he might at once settle the claim by making over the offender (*mancipando*) to the plaintiff, which was called *noxae deditio*. Gaius IV 75 *ex maleficiis filiorum familias servorumve, velut si furtum fecerint aut iniuriam commiserint, noxales actiones proditae sunt, ut liceret patri dominove aut litis aestimationem sufferre aut noxae dedere.* Cp. Ramsay *Rom. Ant.* p. 310. Cp. Varro R. R. II 10, 5 *in* (servorum) *emptione solet stipulatio intercedere sanum eum esse, furtis noxisque solutum*, h.e. *nemini furti obligatum*, as Ulpian explains it D. L. 16, 174.

l. 21. heredum alia causa est] 'the case of heirs is different,' because newly succeeding to an estate, of which slaves were a part, they were not expected *praestare vitia servorum*.

§ 72, l. 24. id agere ut] 'should act in such a way as to,' I § 136, II § 43, § 33.

l. 26. in malitia] i.e. cum sis malitiosus.

intellegentiae] i.q. *sapientiae*, I § 156. Cp. above § 71 *malitia quae volt videri se esse prudentiam*, 96 *prudentia...quam vult imitari malitia.* Having shewn by a number of instances that no action can be expedient

which is contrary to strict justice, he now proceeds to those actions which are done under the pretence of Wisdom and Prudence, but indeed are quite contrary to it, and shews these also to be inexpedient.

P. 32, l. 1. ut videantur] The *ut* clause expands the pronoun *ista*, 'those countless cases of an apparent conflict etc.'

l. 2. quotus quisque] 'each unit of what total number,'='one in how many,' hence 'how small a proportion?' 'how few?' P. S. Gr. pp. 309, 310.

l. 3. ignoratione omnium proposita] 'if the power to keep it a secret from every one were offered him,' § 39. Cp. II § 45 *in hominum ignoratione*, 'unknown to mankind.'

CHAPTER XVIII

§ 73, l. 4. periclitemur] sc. *veritatem huius sententiae* or *num quem reperiamus*, 'let us make trial (if such are to be found),' or 'put to the test the principle which I have laid down, and let our trial be in the case of those examples.' De div. II § 97 *quadringenta septuaginta milia annorum in periclitandis experiendisque pueris—Babylonios posuisse.*

l. 6. testamentariis] 'forgers of wills.' The word properly means 'a notary,' 'one who draws up a will.'

l. 9. fatigandi] 'are to be brought under,' 'repressed'; an elegant use of the word. See I § 88 *qui verbis fatigat*, Top. § 74 *verberibus, tormentis, igni fatigati.* Nonius p. 310 explains it by coërcere, cohibere.

l. 10. L. Minuci Basili] Not further known, perhaps Sulla's *legatus*, Plutarch Sulla c. 9.

l. 11. e Graecia Romam attulerunt] quia in Graecia mortuus erat. Valer. Max. IX 4. *H.*

quod quo facilius obtinerent] 'to retain their hold of it more easily,' de leg. III § 33 *in ista sum sententia, nihil ut fuerit in suffragiis voce melius, sed obtineri an possit videndum est,* de fin. II § 71 *non metuet autem, sive celare potuerit sive opibus magnis, quidquid fecerit, obtinere,* where see Madvig. Cp. Mayor n. to Cic. Philipp. II § 3 l. 10.

l. 12. scripserunt heredes secum] 'made joint-heirs with themselves.' It was a common manœuvre with will-forgers to associate, for the furtherance of their fraudulent design, the names of some eminent persons with their own.

Crassum] M. Licinius Crassus, the triumvir, who fell at Carrhae B.C. 53.

l. 13. Q. Hortensium] the celebrated orator, b. B.C. 114.

l. 14. cum illud—repudiaverunt] 'although they suspected it to be a forgery, yet being conscious of no moral guilt in the matter, they did not spurn the paltry present, procured by other people's villany.' On the meaning of *culpa* see Kühner n. to Tusc. III § 34 *videt malum nullum esse nisi culpam; culpam autem nullam esse, cum id, quod ab homine non potuerit praestari, evenerit*, ep. ad fam. IX 16 *nihil esse sapientis praestare nisi culpam* (ἁμάρτημα ἴδιον).

l. 15. munusculum] ironical diminutive, used with contempt, see § 89 l. 13.

l. 16. satin est hoc, ut] 'is this (i.e. the fact of their not having had any share in forging the will) sufficient to absolve them from being thought to have done wrong? No; in my opinion it is not; though I always loved one of them (Hortensius, II § 57), while he lived, and am no enemy to the other, now that he is dead and gone.' See Brut. I § 2 *dolebam* (at the death of Hortensius) *quod non, ut plerique putabant, adversarium aut obtrectatorem laudum mearum, sed socium potius et consortem gloriosi laboris, amiseram.* Cicero's liking for his rival Hortensius is attributed by Cornelius Nepos (vit. Att. 5) to their common friendship with Atticus *ut intellegi non posset, uter eum plus diligeret, Cicero an Hortensius: et id, quod erat difficillimum, efficiebat, ut inter quos tantae laudis esset aemulatio, nulla intercederet obtrectatio essetque talium virorum copula.* Hortensius after the coalition of Pompey with Caesar and Crassus (B.C. 60) withdrew from public life and confined himself to his duties as an advocate; he died B.C. 50. Once only after his retirement did he appear in public, viz. B.C. 55, to oppose the sumptuary law of Pompey and Crassus, the repeal of which he obtained. For Cicero's sentiments towards Crassus see ep. ad fam. I 9, 20 *cum me disputantem, non lacessentem laesisset, exarsi non solum praesenti, credo, iracundia,—sed cum inclusum illud odium multarum eius* (Crassi) *in me iniuriarum, quod ego effudisse me omne arbitrabar, residuum tamen insciente me fuisset, omne repente apparuit.* The origin of their enmity was that Cicero had charged him with complicity in the Catalinarian conspiracy, Plut. Crass. 13, Sallust Cat. 48. Besides Crassus

was on terms of friendship with Clodius, Cicero's bitterest enemy, and had prevented his condemnation (ad Att. I 16, 5), and therefore had neither opposed Cicero's banishment nor worked for his return. Still Crassus sought to be reconciled with Cicero after his return (Plut. Cic. 33), and an apparent reconciliation took place between them before Crassus' departure for Asia: ad fam. ibid. *cum Pompeius ita contendisset, ut nihil umquam magis, ut cum* Crasso *redirem in gratiam,—habui non temporum solum rationem meorum, sed etiam naturae,* Crassusque, *ut quasi testata populo Romano esset nostra gratia, paene a meis Laribus in provinciam est profectus.*

§ **74, l. 19.** **sed**] § 64 l. 4.

M. Satrium] called after his adoption M. Minucius Basilus Satrianus. He was a confederate of Antonius, spoken of contemptuously by Cicero Phil. II § 107 as *patronus* of Italian townships: *vexavit* (Antonius) *Puteolanos, quod C. Cassium et Brutos patronos adoptassent. Magno quidem studio, iudicio, benevolentia, caritate, non ut te* (sc. Antony) *et* Basilum *vi et armis et alios vestri similes, quos clientes nemo habere velit, non modo illorum cliens esse.* He is doubtless a different man from the L. Minucius Basilus, who served as legatus of Caesar in his Gallic wars and is spoken of as one of his murderers by Appian II 113, Cic. ad fam. VI 15.

l. 20. **nomen suum ferre**] sc. by adoption.

l. 21. **o turpem notam temporum [nomen illorum]** is the reading of the MSS. But Cicero cannot possibly have meant to speak of the name *Basilus* (βασιλεύς) (which was common in the *gens Minucia*, as Rex and Regulus in other families) as a *turpis nota temporum*, the worst he could see in it was a *malum omen*. *Nomen illorum* is evidently a comment introduced by some scribe, who did not understand that the exclamation refers to the preceding *patronum agri Piceni*. It is a disgrace that states, who enjoyed the Roman *civitas*, should choose a *patronus*, like conquered people (I § 35), and, in Cicero's view, that they should choose such men as Antony and Satrius, rather than Brutus and Cassius. Moreover *illorum* cannot be right, because, as Satrius was still *patronus* at the time when Cicero wrote this, he must have written *temporum horum*.

P. 33, l. 1. **defendit**] 'wards off,' 'resists,' the proper meaning of the word, cp. Hor. Sat. I 3, 14 *toga quae defendere frigus quamvis crassa, queat*, Zumpt Gramm. § 469.

l. 2. **in primo libro**] 'in *part* of the first book,' see I § 23. Cp.

II § 43 *in libro superiore*. Without the preposition the whole book would be regarded as taken up with the subject, Zumpt Gr. § 481.

l. 3. **qui non modo non repellit, sed etiam adiuvat ini.**] 'who, so far from repelling, even furthers the wrong,' cp. I § 62 *non modo enim id virtutis non est sed est potius immanitatis*, § 71 *non modo non laudi sed etiam vitio dandum puto*, ep. ad Att. III 15, 2 *dies autem non modo non levat luctum hunc, sed etiam auget*.

l. 4. **verae**] 'real,' 'genuine,' i.e. not gained by forgery of fictitious wills.

l. 5. **malitiosis**] 'knavish,' 'deceitful,' because the rightful heir is thereby ousted, § 61 l. 4.

officiorum non veritate sed simulatione] 'not by sincere but by simulated attentions.' Cp. pro Rosc. Am. § 112 *officio simulato*.

§ 75, l. 9. **regula**] viz. right reason, § 20 l. 14 *formula*.

ab hoc nulla fraus aberit] 'he is capable of any kind of roguery,' § 55.

l. 10. **istuc**] i.q. *istud*, 'what you say.' Zumpt Gramm. § 132.

l. 12. **fraudium**] the same form occurs in Pis. § 44, cp. *laudium* Phil. II § 28, *immunitatium* ib. § 35, Zumpt Gr. § 66 c.

CHAPTER XIX

l. 14. **hanc vim, ut**] § 72 l. 1 n.

si digitis concrepuerit] 'by snapping his fingers.' A proverbial phrase for 'expressing the slightest wish,' as *digitis concrepare* was a common fashion instead of calling to a slave. Cf. Tibullus I 2, 34 *et vocet ad digiti me taciturna sonum*, Martial III 82, 15 *digiti crepantis signa novit eunuchus*, Cic. de leg. agr. II § 82 *primo quidem acres, ad vim prompti, ad seditionem parati, qui, simul ac decem viri concrepuerint, armati in cives et expediti ad caedem esse possint*. Cp. l. 18.

l. 16. **inrepere**] 'creep,' 'slip surreptitiously into,' ὑποδύεσθαι. Cp. pro Arch. § 11 *cum ceteri in eorum municipiorum tabulas inrepserint*.

l. 17. **omnino neminem**] 'no one at all,' *omnino nulla* II § 30.

dares] i.q. *si dares*, 'suppose you gave,' § 54 l. 22, Hor. Sat. I 3, 15. See Zumpt Gr. § 780. Professor Kennedy Gr. p. 468 n. thus comments on the use of tenses in this passage. 'The first sentence suggests a case which (though imaginary and really impossible) Cicero, by a fabulist's license, is entitled to represent as possible. The second falls into the construction *sumptio ficti*, because Crassus was dead at the time, and the

condition, therefore, is a bygone possibility. Why then is not the construction of the double pluperfect conjunctive used? Is it that the floating period of Crassus' public life is contemplated: or that Cicero, taking Crassus as a mere type of unscrupulous greed, uses a form which includes an imaginary future as well as an imagined past. Cp. Hor. Od. IV 8, 20 *neque, si chartae sileant quod bene feceris, mercedem tuleris. Quid foret Iliae Mavortisque puer, si taciturnitas obstaret meritis invida Romuli?*' [The imperfect is rather vivid, 'he would have been dancing,' 'you would have seen him dancing.' S.]

hanc vim—ut] § 72 l. 1.

l. 18. **M. Crasso**] § 73 l. 12. He was celebrated for his wealth and rapacity, I § 25. Cp. Parad. VI § 43 *si cotidie fraudas...si testamenta amicorum ne expectas quidem atque ipse supponis.*

digitorum percussione] 'by a snap of the fingers' § 78. Gibbon in the celebrated 44th chapter of his *History of the Decline and Fall of the Roman Empire* has strangely misunderstood the meaning of these words when he takes them literally as one of the judicial formularies in the *cretio hereditatis*:—'The manumission' he writes 'of a son or slave was performed by turning him round with a gentle blow on the cheek;...... the clenched fist was the symbol of a pledge or deposit; the right hand was the gift of faith and confidence. The indenture of covenants was a broken straw; weights and scales were introduced into every payment, and the heir who accepted a testament was sometimes obliged to snap his fingers, to cast away his garments, and to leap and dance with real or affected transport.'

l. 19. **qui re vera non esset heres**] concessive subjunctive, 'although he was not really heir.'

in foro—saltaret] 'he would, I warrant you, have been dancing in the forum,' i.e. he would be guilty of any extravagant and outrageous conduct, could he but fill his coffers. The Romans regarded dancing as the act of a drunkard or madman, pro Mur. § 13 *nemo fere saltat sobrius nisi forte insanit, neque in solitudine neque in convivio moderato atque honesto*, Nep. Epam. 1, 2 *scimus enim musicen nostris moribus abesse a principis persona, saltare vero etiam in vitiis poni.* The great operatic performers were from Greece, Pylades, Bathyllus, Mnestor. Vide Smith's *Dict. Ant.* s.v. *saltatio.*

in foro] § 93, I § 145 *sed ea quae multum ab humanitate discrepant, ut si qui in foro cantet aut si qua est alia magna perversitas*, or. Philipp. II § 56 *hominem omnium nequissimum, qui non dubitaret vel in foro alea ludere.*

l. 20. sentimus] I § 124 *talem solemus et sentire bonum civem et dicere*, Madv. de fin. II § 6 p. 146.

l. 21. quod in se transferat] final subjunctive with relative.

l. 22. hoc] i.e. the appropriating to oneself the property of others. **hoc admiratur**, 'marvels at this,' as II § 56 *admiremur*, where see note. **fateatur]** Kenn. Gr. p. 338.

P. 34, § 76, l. 1. si qui] for *si quis* I § 144, III § 19, l. 5.

animi sui complicatam notionem evolvere] 'to unfold the idea of a good man which is wrapt up in his mind,' Tusc. IV § 53 *notionem nostram, quam habemus omnes de fortitudine, tectam atque involutam*. This idea (*notio*) originally formed by nature in the mind, previous to knowledge and experience, requires to be brought out (*explicari* § 81) by education and training, to bring forth that which is already latent in the mind. So Cicero Top. § 31 defines *notio* (ἔννοια, πρόληψις) to be *insita et praecepta cuiusque cognitio enodationis indigens*. See Reid on Acad. II § 30 p. 213.

l. 2. iam se ipse doceat] 'he would then at once, without going farther, tell himself.' Observe the elegant use of *iam* for *tum certe, sine dubio*, on which see Kühner n. to Tusc. I § 98 'significat ex antecedentibus verbis sententiam aliquam sponte prodire respondetque graecis particulis ἤδη et δή, quae eadem vi saepe in apodosi usurpantur.' Cp. Hand Tursell. III p. 116

l. 3. noceat nemini nisi cet.] I § 20 *iustitiae primum munus est ut ne cui quis noceat nisi lacessitus iniuria*.

l. 4. quid ergo?] above § 61 l. 1.

hic non noceat] 'would he not be guilty of harm?' i.e. he is surely guilty of harm, Zumpt Gramm. § 530, so below *non igitur faciat*, where Zumpt observes 'Quaeritur sic ut cogitetur: facere vero debet.'

quodam quasi veneno] 'by a kind of magic spell,' orat. § 129 *subito assedit, cum sibi venenis ereptam memoriam diceret*, Hor. Od. II 13, 8 *venena Colcha*.

l. 5. moveat] sc. *loco suo*, 'displace.'

l. 6. non igitur faciat] 'is he not then to do?'

l. 7. nihil nec—nec] On *nec—nec* partitively used after the general *nihil*, cp. I § 66 *nulli neque homini neque perturbationi animi succumbere*, III § 36 l. 25, Hand Tursell. IV 131, Roby Gr. II 2246, Zumpt Gr. § 754, Cic. de rep. I § 11 *nihil nec didicisse umquam nec docere*, pro Rosc. Am. § 78 *hoc nihil neque acerbius neque iniquius proferri potest*.

§ 77, l. 9. Fimbriam] C. Flavius Fimbria, colleague of Marius

in his second consulship B.C. 104, was killed in the civil wars between Marius and Sulla. He is called *consularis* here to distinguish him from the Gaius Fimbria, *legatus* of Lucius Flaccus when proconsul of Asia, whom he killed B.C. 85, and a year afterwards committed suicide, being conquered by Sulla. See Brut. § 129 *C. Fimbria—habitus est sane, ut ita dicam, truculentus asper maledicus, genere toto paulo fervidior atque commotior, diligentia tamen et virtute animi atque vita bonus auctor in senatu. Idem tolerabilis patronus nec rudis in iure civili et cum virtute tum etiam ipso orationis genere liber: cuius orationes pueri legebamus, quas iam reperire vix possumus.*

l. 11. **cum is sponsionem fecisset**] 'after he had laid a wager, to be forfeited if he did not prove that he was *vir bonus*.' Under the formulary system (§ 60 l. 12 note) as Gaius says (IV § 91) *in rem actio duplex est: aut enim per formam petitoriam agitur aut per sponsionem.* By the former the plaintiff claimed the property as his own; by the *sponsio* a sort of judicial wager was entered into as a preliminary proceeding with a view to obtaining a decision on the case. One of the forms has been preserved by Gaius (IV § 93)—*Si homo, quo de agitur, ex iure Quiritium meus est,* XXV *nummos dare spondes?*—to which the *adversarius* replied *spondeo.* When the *sponsio* was made by one party, it was termed *sponsio praeiudicialis*, and was adopted merely as a convenient form of bringing the matter to an issue, the sum not being exacted if the plaintiff was successful, Ramsay, *Rom. Ant.* p. 283 (p. 327 ed. 1894).

l. 14. **si contra iudicavisset**] 'if he had given an unfavourable verdict.' Had Fimbria been speaking in the first person, he would have said, *si contra iudicaverim:* hence in the oblique we have *si contra iudicavisset*, § 45 l. 5, Kenn. Gr. p. 485.

statuisse videretur] 'should seem to have pronounced somebody to be a good man, when such a character is, as he said, made up of such an infinity of duties and praiseworthy qualities.'

l. 15. **aliquem**] 'that there was such a thing as a "good" man,' cp. I § 35 *aliquam rem publicam haberemus*, III § 118 l. 20 *aliquo modo.*

l. 16. **laudibus**] 'merits,' 'praiseworthy actions.'

huic viro bono] i.e. tali bono viro.

l. 17. **quem Fimbria etiam—noverat**] i.e. such as even a man of the world, like Fimbria who was no philosopher, conceived, let alone Socrates.

non modo Socrates] § 11, P. S. Gr. p. 326 *c*.

l. 19. **non modo facere, sed ne cogitare quidem**] The negative in

ne quidem, when followed by a common predicate (as here *audebit*), often extends its influence over a preceding clause, beginning with *non modo*. Key Gramm. § 415, Zumpt Gramm. § 724 *b*, P. S. Gr. p. 326 *b*, Madvig Gr. § 461 *b*. Translate: 'such a man will not venture not merely to do, but even to conceive, anything which is not morally right.'

l. 21. **haec non turpe**] 'is it not scandalous that philosophers should be in doubt about matters which even peasants admit?' An interrogative meaning may, in direct speech, be given to a proposition by its mere tone, viz. when a question at the same time conveys the idea of surprise or astonishment, Zumpt Gr. § 351 *n*. On the construction *dubitare haec dubitare de his rebus* see Zumpt Gr. § 385.

l. 24. **quicum—mices**] 'to play at odd and even with,' Fin. II 52, Sueton. vit. Aug. 13 *alios, patrem et filium, pro vita rogantes sortiri vel micare iussisse, ut alterutri concederetur*. The word *micare* was applied to a simple game of the Romans which is still common enough among their descendants and called *la morra*, in French *la mourre*. The game is this: of two persons one, at a given signal, quickly opens any number of his fingers. At the same moment the other endeavours to match his opponent by opening the same number. In the light, of course, each could see, as soon as it was done, whether the guess was right. In the dark, honesty would be the only check to deception: hence to play with a man in the dark implied full confidence in him. See note by Sir J. R. Wilkinson in Rawlinson's Herodotus I ch. 95. *Quicum* (i.q. *quocum = ut cum eo*) is generally used by Cicero, when the subject or person is indefinite, I § 37 *eum quicum bella geras*. [Cp. Fronton. ep. ad Marcum Caesarem I[3] (p. 24 ed. Niebuhr) *aliud scurrarum proverbium:* en cum quo in tenebris mices. J. E. B. M. Petron. Sat. § 44 *cum quo audacter posses in tenebris micare*. S.]

l. 26. **nullo refellente**] 'without any one being able to prove it against you.' *Refellere* is used without an object as in de orat. II § 9 *in quo liceat mihi fingere, si quid velim, nullius memoria iam refellente*.

l. 27. **obtinere**] § 73 l. 12.

§ 78, l. 27. **videsne**] = nonne vides, § 68 l. 4.

Gygi illi] § 38.

l. 28. **paulo ante**] § 75.

l. 29. **digitorum percussione**] 'with a snap of his fingers,' § 75 l. 18.

converrere] 'to sweep together to himself.' Cp. Hor. Od. I 1, 10 *quidquid de Libycis verritur areis*. So, with a play of words upon his name, Cicero says of Verres act. II 2 that he went *ad everrendam*

provinciam, 'to sweep the province clean.' The metaphor is borrowed from a 'broom,' or from a 'drag-net' called *verriculum*.

l. 32. **adversante natura**] 'against the dictates of nature.' Cp. the proverb *invita Minerva* I § 110.

CHAPTER XX

P. 35, § 79, l. 1. at enim]=ἀλλὰ νὴ Δία in Greek, 'but it will be said,' introducing an opponent's objection, which must be answered, as I § 144, III § 76, § 105, Hand Tursellinus I p. 446, Madvig Gr. § 437 c, Roby Gr. II 1623, Kenn. Gr. p. 319.

l. 2. **C. Marius**] postea septiens consul, Sallust Iug. c. 63.

l. 3. **septimum annum**] The usual interval between the Praetorship and Consulship was two full years, as in the case of Cicero himself, II § 59.

iaceret] 'remained in obscurity,' III § 46 l. 9, the usual phrase for those aspirants to public offices who allowed more than the ordinary time to elapse before their attainment of the next highest dignity, ad Quint. fr. III 2, 3 *consules comitia habere cupiunt, rei nolunt et maxime Memmius, quod Caesaris adventu se sperat futurum consulem, sed mirum in modum iacet*, pro Mur. § 17 *qui—iacebant*='were yet *ignobiles*,' ib. § 45 *iacet, diffidit, abiecit hastas*.

l. 4. **Metellum**] The Metelli were an eminent plebeian family at Rome, eight of whom were distinguished consuls:—(1) Q. Caecilius Metellus, B.C. 207: (2) Macedonicus, his son, B.C. 143 (I § 87): (3) Balearicus, son of No. 2, B.C. 123: (4) Dalmaticus, nephew of No. 2, B.C. 119: (5) Caprarius, son of No. 3, B.C. 113: (6) Numidicus, nephew of No. 2, B.C. 109: (7) Nepos, son of No. 3; (8) Creticus, grandson of No. 4. The Metellus mentioned in this passage was Q. Caecilius Metellus L. F. who had the *agnomen* of Numidicus from his victory over Jugurtha in Numidia. Cp. Ovid Fasti I 593 *Africa victorem de se vocat: alter Isauras | aut Cretum domitas testificatur opes; | hunc Numidae faciunt, illum Messana superbum*, Martial II 2 *Creta dedit magnum; maius dedit Africa nomen, | Scipio quod victor quodque Metellus habet*. For the fact here related see Sall. Iugurth. 64.

l. 5. **ab eo—Romam missus esset**] According to Sallust l.c. Metellus had given leave to Marius to return home at his own suit, and moreover had provoked him by his sneers. So Plutarch Mar. 8 *σὺ δὴ καταλιπὼν ἡμᾶς, ὦ γενναῖε, πλεῖν ἐπ' οἴκου διανοῇ καὶ παραγγέλλειν ὑπατείαν; οὐ γὰρ ἀγαπήσεις, ἂν τῷ ἐμῷ παιδὶ τούτῳ συνυπατεύσῃς; ἦν δὲ ὁ παῖς τότε τοῦ Μετέλλου παντάπασι μειράκιον.*

l. 7. **ducere**] i.e. *producere*, *trahere*, 'that he was protracting.' *Illum* refers of course to Metellus, although the simple pronoun of reference *eum* had been used in speaking of him before in the same sentence: the reason is, that another subject intervenes viz. *populum Romanum*, hence the necessity for a more distinct reference in mentioning Metellus.

si—fecissent] For tense see § 77 l. 14 n.

l. 9. **redacturum**] Sall. l.c. represents Marius as saying *dimidia pars exercitus si sibi permitteretur, paucis diebus Iugurtham in catenis habiturum, ab imperatore consulto trahi, quod homo inanis et regiae superbiae imperio nimis gauderet.*

l. 10. **qui—adduxerit**] causal subjunctive, 'because he brought into odium by a false accusation.'

l. 11. **cuius legatus esset**] This is repeated for the purpose of marking more strongly the impiety of the act *laesio mandati*. It was considered as a breach of piety for a former *legatus* to appear as a witness in a court of justice against his *imperator*.

§ **80**, l. 13. **ne noster quidem Gratidianus**] i.e. *ne noster* ('my relative') *quidem Marius, nempe Gratidianus*, § 67. M. Marius Gratidianus, son of M. Gratidius, adopted son of a brother of the famous Marius (de leg. III § 36). He was praetor B.C. 86 and for the second time B.C. 82. His *edictum* concerning the coinage (see below note to l. 15) made him very popular, so that statues were raised in all the public places to the author of so beneficent a reform, and almost divine honours were paid to these statues by burning incense and wax tapers before them. Sulla visited him with cruel retribution for this popularity. He was a formidable political adversary, and in the eyes of the aristocratic party had committed a veritable crime in assailing a right of the State to alter the value of the coinage. As soon therefore as the dictator entered Rome, all the statues of Gratidianus were overthrown, and he himself proscribed and cruelly murdered, Cic. de pet. cons. § 10, Seneca de ira III 18, Lucan Phars. II 174 ff.

l. 15. **adhibuissent**] sc. *in consilium*, 'he summoned to counsel,' 'consulted,' I § 147 *adhibere doctos homines et quid his placeat exquirere.*

ut res numaria—constitueretur] 'in order that the currency might have its value defined and settled,' 'its standard fixed by a joint resolution.' The *lex Flaminia*, passed at a great crisis of peril to the Republic, when Hannibal was almost at the gates of the city, suddenly

reduced the silver *denarius*, which became from that time the true standard of value, from $\frac{1}{72}$ to $\frac{1}{84}$ of a pound. It was this law which established the false principle of regarding gold and silver coinage merely as a conventional sign of value, subject to the will of the sovereign or the state. By means of the theory of the *money-sign* the monied oligarchy of Rome produced grave perturbations in the monetary system by falsifying the coins. In each successive issue of *denarii* there was a larger and larger proportion of plated pieces (i.e. of money containing only a thin coating of the true metal over copper or iron), until B.C. 91 M. Livius Drusus caused the Senate to pass a decision that in future issues there should be one plated copper *denarius* to seven of silver. A few years later, in Cinna's time, the value of the coinage had become so dubious that no one knew what he was worth (*quid haberet*). In B.C. 84 the tribunes of the people and the praetors deliberated on the measures to be taken in order to remedy this deplorable state of things. An edict of the praetors instituted officers for the verification of the coinage, suppressed the enforced circulation of the plated *denarii*, ordered that they should be withdrawn from the public coffers and that *denarii* of a true standard should be given in exchange. See an excellent Article on Money in Greece and Rome in the *Contemporary Review*, Feb. 1879, by François Lenormant, pp. 504—523.

l. 16. **iactabatur**] 'was in an unsettled state,' 'fluctuated.' Cp. Pliny h. n. XXXIII 9, 46 *miscent aera falsae monetae: alii e pondere subtrahunt, cum sit iustum* LXXXIV *e libris signari. Igitur ars facta denarios probare tam iucunda plebei lege ut M a r i o G r a t i d i a n o vicatim totas statuas dicaverit. Mirumque, in hac artium sola vitia discuntur et falsi denari spectatur exemplum pluribusque veris denariis adulterinus emitur.*

l. 18. **communiter**] i. q. *de communi sententia*, 'by the combined judgment of the tribunes and praetors.'

edictum cum poena atque iudicio] 'with a penalty and determination of the judicial proceedings applicable thereto.' Cp. Verr. I 42, 108 *Cornelia* (*lex*) *n u m a r i a*, *ceterae complures, in quibus non ius aliquod novom populo constituitur, sed sancitur, ut, quod semper malum facinus fuerit, eius quaestio ad populum pertineat ex certo tempore.*

l. 20. **escenderent**] i. q. *ascenderent*.

et ceteri quidem] 'and while all the rest departed, some one way and some another, Marius Gratidianus went straight to the *rostra*

(without waiting for the hour appointed) and by himself gave out what had been by common consent agreed upon among them.'

alius alio] sc. *se contulerunt.*

ab subselliis] sc. *tribunorum.* The *tribuni plebis* sat on 'benches' *subsellia,* not curule chairs, as not being curule magistrates. The *subsellia* were distinguished from the *sellae curules* partly in being lower and partly in giving accommodation for more than one person.

l. 21. recta] sc. via se contulit, ep. ad Att. IV 5, 3 *tu de via recta in hortos,* Fin. V 32 *sed tempus est; et recta quidem ad me.*

l. 22. si quaeris] 'if you ask me,' 'if you want to know' i.q. *ut verum dicam, non diffiteor:* ep. ad fam. VII 1, 2 *omnino, si quaeris, ludi apparatissimi, sed non tui stomachi,* de sen. § 65 *sunt morosi et anxii et iracundi senes, si quaerimus, etiam avari,* de or. II § 254. The phrase apologises for a possibly superfluous statement, P. S. Gr. p. 475, 6.

l. 23. omnibus vicis] for omission of *in* see Roby § 1170.

statuae] Plin. h. n. XXXIV 6, 12 *statuerunt et* (statuas) *Romae in omnibus vicis tribus Mario Gratidiano, ut diximus, easdemque subvertere Sullae introitu,* Seneca de ira III 18 *M. Mario, cui vicatim populus statuas posuerat, cui [in cuius honorem] ture ac vino supplicarat, L. Sulla praefringi crura, erui oculos, amputari manus iussit.*

ad eas tus, cerei] 'by them (i.e. the statues) frankincense and tapers were burned.' *Cereus,* 'a wax light,' Plaut. Curc. I i 1 *tute tibi puer es, lautus luces cereum,* i.e. 'you wait upon yourself and carry your own light though smartly dressed' (or 'though well off'). *Cerei* were frequently sent as presents on the *Saturnalia* by the poorer clients to their patroni. Hence Martial V 18:—

> *quod tibi Decembri mense, quo volant mappae,*
> *gracilesque ligulae cereique chartaeque.*

quid multa?] sc. *commemoro,* i.e. ut paucis dicam, § 59 l. 2.

l. 24. multitudini carior] cp. de pet. cons. § 10 *M. Marius Gratidianus, homo carissimus populo Romano a Catilina caesus et crudelissime occisus.*

§ 81, l. 24. haec sunt quae conturbent] 'these are the sort of cases that perplex,' § 40 l. 23.

l. 26. non ita magnum] i.e. 'not so very great,' II § 19 *neque ita multo post,* Brut. § 244 *non ita multos,* orat. § 59 *rarus incessus nec ita longus,* de nat. deor. I § 86 *quibus—non ita valde moventur,*

Brut. § 233 *non ita diu*, Hor. Sat. II 6, 1 *hoc erat in votis, modus agri non ita magnus*, Madvig Gr. § 462 *a*.

P. 86, l. 1. consulem fieri] But he was cruelly killed by Sulla before he attained the object of his ambition, see § 80 l. 13 note.

l. 3. omnium] neut. 'for all cases,' I § 67 *in duobus*.

l. 6. illum—hunc] C. Marius—Gratidianus.

l. 7. excute] 'sift,' 'examine': metaphor from shaking out a bag, cp. orat. part. § 124 *explicando excutiendoque verbo*, Tusc. I § 88, p. Mur. § 26 *in manibus iactata et excussa inanissima prudentiae reperta sunt*.

l. 8. [species] forma et notio] See crit. notes. It is impossible to say which of the two words *species* or *forma* is to be ejected. They are both used as equivalents to the Platonic εἶδος or ἰδέα: Tusc. I § 58 *quod semper tale sit, quale ἰδέαν appellat ille, nos speciem*, Top. § 30 *in divisione formae sunt, quas Graeci εἴδη vocant, nostri—species appellant, non pessime id quidem, sed inutiliter ad mutandos casus in dicendo. Nolim enim, ne si Latine possit quidem dici, specierum* et *speciebus dicere,—at formis et formarum velim*, Madvig opusc. acad. I p. 337.

cadit in] 'does it suit,' 'fall in with the character of?' § 14 *nec praeter sapientem cadere in quemquam potest*, § 17 *quod in nostram intellegentiam cadit*.

l. 9. mentiri—criminari] as did Gaius Marius in his conduct towards Metellus. **praeripere, fallere]** as did Gratidianus in his conduct towards his fellow-praetors and the tribunes of the Commons.

§ 82, l. 12. ut—amittas] 'that you should part with the unsullied glory and name of an honest man for it.'

l. 14. quantum auferre] sc. *potest*.

l. 15. quid enim—beluae] This would be more appropriate at the end of the section after *exceperit*.

l. 16. hominis figura] i.e. *cum sit hominis figura*, 'with the outside and figure of a man,' the ablative of quality where the genitive *hominis* takes the place of an adjective, Madvig Gram. 257, *obs*. 5. So § 32 l. 18 *sic ista in figura hominis feritas et immanitas beluae*. Müller aptly compares de rep. II 48 *qui (tyrannus) quamquam figura est hominis, morum tamen inmanitate vastissimas vincit beluas*.

CHAPTER XXI

l. 18. quid ?] An anticipatory question, 'what will you say to this?' cp. II § 76, § 80.

dum modo] 'provided that.'

l. 19. is, qui etiam socerum habere voluit] Pompeius Caesarem, cuius e Cornelia filiam duxit uxorem, Iuliam A.V. 695 (A.C. 59), frustra Catone clamitante, regnum conciliari nuptiarum lenociniis, *σφόδρα μαρτυρομένου Κάτωνος καὶ βοῶντος οὐκ ἀνεκτὸν εἶναι γάμοις διαμαστροπευομένης τῆς ἡγεμονίας καὶ διὰ γυναίων εἰς ἐπαρχίας καὶ στρατεύματα καὶ δυνάμεις ἀλλήλους ἀντεισαγόντων*, Plutarch. in Iul. Caes. c. 14, Cato min. c. 31, Pompei. c. 47, Sueton. Iul. Caes. 21, 50. Ipse Pompeius non minus cupidus in se et patriam armaverat Caesarem tum, cum iterum consul A. V. 699 (A. C. 55) operam daret ut Caesari Galliarum administratio in alterum quinquennium prorogaretur. BEIER.

l. 21. esset] final subjunctive after *cuius*=*ut eius*.

alterius invidia] 'while the unpopularity fell on another,' sc. Caesar, who incurred much of the odium of Pompey's acts, from the close connexion with him in the so-called triumvirate.

P. 87, l. 1. versus de Phoenissis]=v. ex Phoenissis sumptos; 'verses from the *Phoenissae* of Euripides,' v. 524 *εἴπερ γὰρ ἀδικεῖν χρή, τυραννίδος πέρι | κάλλιστον ἀδικεῖν, τἆλλα δ' εὐσεβεῖν χρεών.* For this use of *de* instead of *ex*, cp. de rep. I § 30 *illa de Iphigenia Achillis*, Tusc. III § 53 *hi poterant omnes eadem illa de Andromacha deplorare*, de nat. deor. I § 18 *Platonis de Timaeo deum*, de orat. III § 141 *versum quendam de Philocteta paulo secus dixit*, where, however, Baiter reads *Philoctetae*.

l. 2. dicam ut potero cet.] 'I will express, as well as I can, it may be awkwardly, but still so as to make their sense intelligible.' For *dicam* cp. de orat. III § 141 quoted to l. 1, and for *res* II § 32 *si res forte non suppetit*.

incondite] or. § 150 *quamvis suaves gravesve sententiae, si inconditis verbis efferuntur, offendunt aures*.

l. 6. capitalis] 'criminal,' 'deserving capital punishment,' I § 41 *capitalior iniustitia*, II § 73 *capitalis oratio*. Eteocles king of Thebes and brother to Polynices, both of them sons of Oedipus by Iocasta his own mother. They agreed to reign by turns, Eteocles began, but when his year was out, would not resign to Polynices. Hence the war, in which the two brothers killed one another. Beier and Heine ed. 5 are

probably right in eliminating the words *Eteocles vel potius Euripides*, as the word *capitalis* evidently is aimed at Caesar.

qui exceperit] 'for having exempted,' causal subjunctive, § 79 l. 12.

l. 7. sceleratissimum] i.e. patriam servitute opprimere. *H.*

quod—fuerit] II § 84 *non, si fuerit, ut locupletes suum perdant.*

§ 83, l. 8. minuta] 'crimes on a small scale.'

l. 9. ecce tibi, qui] 'here you have a man,' 'here is a man for you.' Whatever Iulius Caesar may have wished, he never really took the invidious title of *Rex*, it is his enemies who give it him. Suetonius tells us (Caes. c. 80, cf. 79) that there was written beneath his statue in the forum:—

Brutus, quia reges eiecit, consul primum factus est;
hic, quia consules eiecit, rex postremo factus est.

Plutarch Anton. c. 6 ἦγε δ' αὐτὸν ἐπὶ πάντας ἀνθρώπους ἔρως ἀπαρηγόρητος ἀρχῆς καὶ περιμανὴς ἐπιθυμία τοῦ πρῶτον εἶναι καὶ μέγιστον. For this use of the dativus ethicus, or of the person interested in a statement in lively or ironical expressions, see Madvig Gr. § 248, Roby Gr. II 1150, and cp. de orat. II § 94 *ecce tibi exortus est Isocrates*, in Pison. § 48 *ecce tibi alter*.

l. 10. idque] sc. *quod concupierit*.

l. 13. taetram et detestabilem] I § 120 *naturae suae non vitiosae genus*.

l. 15. id facere] sc. *regnare*, 'to be king,' I § 4 *ornate facere* (i.e. *pronuntiare*).

l. 16. obiurgatione—convicio] 'remonstrance—reproach.' On the meaning of *convicium* consult a note in Dr Reid's excellent edition of the *pro Archia* § 12 l. 21 and comp. ad fam. XII 25, 2.

l. 17. coner] dubitative conjunctive, § 60 l. 10, § 68 l. 7, Kenn. Gr. p. 339.

l. 20. Parens] Caesar had the title *pater patriae* bestowed upon him after the battle of Munda (B.C. 45) to the great chagrin of Cicero, who prided himself that the title became himself only, II Phil. § 31, XIII Phil. § 23, Dio 44, 3. After Caesar's death, Antonius allowed the words *parenti optime merito* to be placed under his statue in the forum (ad fam. XII 3), and the people erected to him a column in Numidian marble 20 feet high with the inscription *Parenti patriae*, Sueton. div. Iul. c. 85.

l. 21. derigenda] 'is to be measured by,' 'ought to have for its standard.'

l. 22. discrepare] i.q. *dissonare*, I § 145 *ea quae ab humanitate discrepant*, de fin. IV § 60 *quid attinuit cum eis, quibuscum re concinebat, verbis discrepare?* de nat. deor. I § 16 *re concinere videntur, verbis*

discrepare. For the musical metaphor contained in *discrepare* cp. Plato Phaed. 92 C οὗτος ὁ λόγος ἐκείνῳ πῶς ξυνᾄσεται;

haec duo] i.e. *honestas* and *utilitas.*

unum sonare] i.e. *consonare, idem significare,* 'to have the same sound,' i.e. meaning; de fin. II § 6 *non intellegere interdum, quid sonet haec vox voluptatis, id est quae res huic voci subiciatur,* cp. Brut. § 259 *Cotta sonabat subagreste quiddam,* Lucr. III 873 *sincerum sonere,* de rep. III 2 *inchoatum quiddam et confusum sonantes.*

P. 88, § 84, l. 1. non habeo] 'I cannot tell,' see II § 7 *nec habeat unquam quid sequatur.* 2 Phil. § 74 *quo se verteret non habebat.*

ad volgi opinionem maior] 'greater according to the vulgar or ordinary standard of thinking,' II § 47 *ad opinionem innocentiae.*

l. 2. regnandi] sc. *utilitas.*

l. 3. ad veritatem—revocare] 'to bring back (from the popular standard) to the standard of truth,' de div. II § 66 *ad coniecturam revocantur.*

l. 5. angores—metus] I § 78 *fortitudines.*

l. 9. Accius] L. Accius (or Attius) the Roman tragic poet was born B.C. 172, and was fifty years younger than Pacuvius. Cicero, when young, frequently conversed with him (Brut. § 107). He wrote tragedies on some Roman subjects (*praetextatae*), but chiefly imitations from the Greek, which were admired for vigorous language and sublime thoughts, pro Planc. § 59 *gravis et ingeniosus poeta,* pro Sest. § 120 *summi poetae ingenium,* Hor. Ep. II 1, 56 *aufert Pacuvius docti famam senis, Attius alti,* A. P. 259 *in Atti nobilibus trimetris,* Vell. I 17 *nisi aspera ac rudia repetas et inventi laudanda nomine, in Attio circaque eum Romana tragoedia est,* Quintil. X 1, 97 *tragoediae scriptores veterum Attius atque Pacuvius clarissimi gravitate sententiarum, verborum pondere, auctoritate personarum. Ceterum nitor et summa in excolendis operibus manus magis videri potest temporibus, quam ipsis defuisse. Virium tamen Attio plus tribuitur: Pacuvium videri doctiorem, qui esse docti adfectant, volunt.* The Epigoni of Accius is mentioned in I § 114, cp. I § 97, III § 102. The troch. tetr. catal. verse quoted in the text is taken from the *Atreus* or *Pelopidae* or *Clutemnestra* (Ribbeck tragic. fragm. 651), according to Heine from the *Aegisthus.*

at cui regno?] sc. *iniqui atque infideles sunt,* 'but what kingdom was it that he was speaking of? why, one that was held by right, being transmitted from Tantalus and Pelops.'

l. 10. proditum]=per manus traditum, 'handed down.'

nam quanto plures ei cet.] The train of thought seems to be this: *at cui regno? quod—iure obtinebatur. At alia huius regni causa est. Nam exercitu populi Romani populum ipsum Romanum oppressit. Quanto igitur plures ei regi* (sc. *Caesari*) *iniquos et infideles fuisse putas?* Translate: 'How many more (enemies) then must Caesar have had, when he made use of their own army to enslave the Roman people?' *Nam* is frequently thus used in an elliptical sentence, where the statement, for which a reason is given, is to be supplied mentally. Cp. II § 47, Kritz ad Sall. Iug. XIX 2. The allusion is to Caesar having employed the army raised for the subjugation of Gaul against his own country.

l. 13. gentibus imperantem] participle used adjectively, cp. II § 11 *ratione utentia*, § 15 *valentium*.

§ 85, l. 14. quas conscientiae labes—censes habuisse] 'what failings, misgivings, of conscience must he have felt?' Cp. leg. II § 24 *nam illuvies vel adspersione aquae vel dierum numero tollitur: animi labes nec diuturnitate evanescere nec amnibus ullis elui potest.* The primary meaning of the word *labes* is 'a sinking, giving way of ground,' a 'landslip,' de divin. I § 78 *tantos terrae motus factos esse, ut multis locis* labes *factae sint terraeque desederint*, ib. § 97 *labe agri Privernatis*, Lucret. II 1149 *moenia mundi expugnata dabunt* labem. Hence its signification 'of any degrading fault,' 'corruption,' de am. § 41 *videtis in tabella quanta facta sit labes.*

l. 15. vulnera] cp. Tacitus ann. VI 6 *neque frustra praestantissimus sapientiae* (Socrates ap. Platon. Gorg. p. 524 E) *firmare solitus est, si recludantur tyrannorum mentes, posse aspici laniatus et ictus, quando ut corpora verberibus, ita saevitia, libidine, malis consultis animus dilaceretur*, Claudian in Rufin. II 504 ff. *en pectus inustae | deformant maculae vitiisque inolevit imago, | nec sese commissa tegunt.*

cuius autem vita cet.] 'now whose life can be beneficial to himself, if he hold it upon such terms, that whoever robs him of it is sure to rise to the greatest favour and glory?' Such was the case with Harmodius and Aristogiton, the murderers of Hipparchus, son of Pisistratus, to whom statues and honours were decreed as to public benefactors. Cp. Philipp. I § 35 *si enim exitus C. Caesaris efficere non potest ut malis carus esse quam metui, nihil cuiusquam proficiet nec valebit oratio. Quem qui beatum fuisse putant, miseri ipsi sunt. Beatus est nemo, qui ea lege vivit, ut non modo impune sed etiam cum summa interfectoris gloria interfici possit.*

l. 18. quae maxime videntur] sc. *utilia esse*. He means absolute power.

CHAPTER XXII

§ 86, l. 21. quamquam] adverbial, 'though indeed,' I § 30, § 81, II § 76.

id] sc. *nihil esse utile, quod non honestum*.

saepe alias] See n. to § 47 l. 3.

Pyrrhi bello] de nat. deor. II § 165.

l. 22. a C. Fabricio et a senatu iudicatum est] h.e. *se ita iudicare significaverunt Fabricius et senatus*. Cp. Tusc. v § 61 *quamquam hic quidem tyrannus ipse iudicavit quam esset beatus*, i.e. as Kühner ad l. explains it, *satis demonstravit, quam beatum se esse iudicaret*.

l. 23. cum enim cet.] I § 40. *enim* like γάρ epexegetic, II § 56.

bellum ultro intulisset] i.e. *eo iniuriarum progressus esset ut bellum inferret*, I § 40. *Ultro* means originally 'to a place beyond,' as in the phrase *ultro et citro* I § 56, hence 'in addition,' 'moreover,' 'going still farther,' 'beyond expectation,' and is so used when anything is done *proprio motu*, unasked, unchallenged, unprovoked, thus *ultro bellum inferre* is 'to commence hostilities without having sustained any previous injury,' 'to be the aggressor,' Roby Gr. II 2184. The derivation of *ultro*, 'willingly,' from *uol-*, 'wish,' is altogether indefensible.

l. 24. de imperio] i.e. uter imperaret: cp. I § 38 *sed ea bella, quibus imperi gloria proposita est, minus acerbe gerenda sunt*.

l. 25. perfuga] According to Aulus Gellius, N. A. III 8, who quotes from Claudius Quadrigarius the annalist the letter written by the Roman consuls Fabricius and Aemilius, the traitor was Nicias, a friend of Pyrrhus; according to Valerius Antias, it was Timochares, an Ambracian; and so Valerius Maximus VI 5, 1 records, while Flor. I 18, 21 calls him *medicus*, and Dio Cass. fr. 40, 44 ed. Bekk. speaks of him as ἀνήρ τις τῶν περὶ τὴν θεραπείαν τοῦ βασιλέως.

P. 89, l. 1. proposuisset] i.q. *promisisset*. On the tense see § 77 l. 14.

l. 5. opinionem] sc. *utilitatis*, 'popular opinion as to,' in opposition to veritas. Cp. § 11 and § 84 *ad vulgi opinionem*.

l. 7. sed magnum dedecus—superatum] sc. *erat*, § 55 l. 14 Translate: 'but it would have been a lasting disgrace and scandal for one, with whom the struggle lay for glory, to have been overcome by an act of wickedness and not by valour.'

l. 8. laudis certamen] i.q. certamen de laude, cp. I § 87 *honorum contentio.*

§ 87, l. 9. qui talis—fuit] because both bore the name of *iustus*, § 16 l. 21.

l. 11. qui numquam utilitatem cet.] At fatetur alibi (cap. XI et hoc ipso capite) etiam senatum aliquando utilitatis specie deceptum esse. Est ille quidem deceptus, sed non ita, ut utile putaret, quod inhonestum fateretur, sed ut quod utile esset reipublicae, idem fieri posse salva honestate existimaret. *Z.*

l. 14. quoquo modo] 'in any way,' cp. I § 43 *quacumque ratione*, Madvig Gr. § 87 obs. 1.

l. 15. cum infamia] 'when attended by disgrace,' I § 25 *cum elegantia*, II § 36 *cum admiratione.*

l. 16. non igitur utilis cet.] 'therefore the proposal of L. Philippus, son of Quintus, was not expedient, viz. that the states, which by a decree of the senate Sulla had freed from taxation upon their payment of a sum of money, should be again made tributary and that we should not return them the money, which they had paid to purchase their exemption. The senate assented to his proposal. A disgrace to the empire.'

L. Philippi] L. Marcius Philippus was Trib. Pl. B.C. 103, Consul B.C. 91. Cicero speaks very highly of him in II § 59 as *magno vir ingenio.* See I § 108.

l. 17. civitates] probably some Asiatic states wrested from Mithridates, who purchased exemption from taxes from Sulla, when in want of money to pay his troops.

liberavisset] sc. vectigalibus, 'had exempted from being tributary,' cp. or. agr. I § 10 liberare *agros*, Verr. II 31, 76 liberet *Byzantios*, de off. II § 82.

l. 18. vectigales] 'subject to tribute'; cf. Verr. III § 79 *ita civitas una sociorum atque amicorum duabus deterrimis mulierculis Verre Praetore vectigalis fuit.*

ut essent] the *ut* clause expands the pronoun *illa.*

l. 20. turpe imperio] sc. *hoc fuit Romano.*

piratarum enim melior fides] 'for the honour of freebooters is better than that of the senate,' because they dismiss their captives when ransomed without any further claims.

l. 21. at] i.q. *at enim* (§ 101), 'but, it may be said.'

vectigalia] The vectigalia, which were laid upon the provincials, were (1) *certa*, called *stipendia*, (2) *incerta*, dependent upon the season,

of three kinds, (*a*) the tithes on the produce of the land (*decumae frumentariae*), (*b*) the customs or duties on exports and imports (*portoria*), (*c*) the rent paid for the public land let out as pasture (*scriptura*).

§ **88, l. 25. etiam**] 'further,' I § 90.

cum Catone dissensi] harusp. r. § 54 *dissensit cum Mario*.

l. 26. praefracte] 'obstinately.' **aerarium defendere**] 'to advocate the cause of the *aerarium*.' 'Cato,' he says, 'talks as though he were in the republic of Plato, not in the dregs of Rome,' ad Att. II 1, 8.

l. 27. publicanis] 'the farmers-general of the revenue,' an important body in the Roman state, the monied men of the time; they belonged to the equestrian order. Their functions, says Long on Cic. ep. ad Qu. I 95, were the same as those of the French 'fermiers généraux' before the revolution of 1789, and the history of these 'fermiers généraux' is the best commentary that we can have on the Roman system. See or. pro Plancio § 23 *flos enim equitum Romanorum, ornamentum civitatis, firmamentum rei publicae publicanorum ordine continetur*, ep. ad Qu. fr. I 1, 12 *potes etiam id facere ut commemores* (sc. to the provincials) *quanta sit in* publicanis *dignitas, quantum nos illi ordini debeamus:—et ab eis hoc petas, ut facilitate sua nos eam necessitudinem, quae est nobis cum publicanis, optinere et conservare patiantur.* They underlet the collection of the revenue to persons called *decumani, portitores* (I § 150), *pecuarii*, according to the different kinds they collected. The *publicani* sometimes, when they had purchased the farming of the revenues at too high a rate, petitioned the senate to be let off their contract, or to have some reduction made in the terms, as on the occasion alluded to here (B.C. 61). Cato opposed them strenuously, insisting that they should be kept to their bargain, thereby disturbing the *ordinum coniunctio* or harmony between the senate who had the control of the business and the equestrian order to whom the *publicani* belonged; for many of the *equites* became alienated from the senate, and joined the party of Caesar through whom they obtained what the senate had refused (pro Planc. § 35, Sueton. Caes. c. 20, Dio Cass. 38, 7). Cicero refers to this incident in several places, pro Muren. § 62 *petunt aliquid* publicani, *cave quicquam habeat momenti gratia:* again, ep. ad Att. I 17, 9 *Asiam qui de censoribus conduxerant, questi sunt in senatu se cupiditate prolapsos nimium magno conduxisse, ut induceretur* ('should be cancelled') *locatio postulaverunt: ego princeps in adiutoribus atque adeo secundus.—Invidiosa res, turpis postulatio et confessio*

temeritatis; summum erat periculum ne, si nihil impetrassent, plane alienarentur a senatu, ib. 18, 7 *unus est qui curet constantia magis et integritate quam, ut mihi videtur, consilio aut ingenio*, Cato, *qui miseros* publicanos, *quos habuit amantissimos sui, tertium iam mensem vexat neque eis a senatu responsum dari patitur: ita nos cogimur reliquis de rebus nihil decernere, antequam publicanis responsum sit*, ib. II 1, 8.

multa sociis] Cicero is here thinking of Cato's rough proceeding against Cyprus and its king Auletes, B.C. 58.

in hos] sc. socios.

l. 28. cum illis sic agere—soleremus] 'to deal with the former as we usually do with our own tenants,' to whom we remit a portion of their rent in bad years, see Plin. ep. IX 37.

P. 40, l. 1. soleremus] 'are wont, as I then stated in my speech.' The imperfect is used because the leading proposition (*videbatur*) is in the past: the subjunctive because Cicero is reporting what he said. Cp. II § 1.

l. 3. male etiam Curio] sc. fecit. There were three eminent men of the name Gaius Scribonius Curio, *avus, pater, filius*, Plin. h. n. VII 41 *una familia Curionum in qua tres continua serie oratores extiterunt.* The first (Curio avus) was a distinguished orator (*eloquentissimus temporibus suis* de orat. II § 98, Brut. § 122), who spoke against Servius Fulvius, when accused of incest. The second is the one referred to in the text and again II § 59. He was tribune of the plebs B.C. 90, and, after serving under Sulla in Greece, became praetor B.C. 82 and consul B.C. 76. At the expiration of his consulship he was made proconsul of Macedonia, where he carried the war against the barbarians as far north as the Danube, and celebrated a triumph over the Dardanians in 71 (in Pis. § 44). An intimate friend and supporter of Cicero, he entertained a personal enmity to Caesar, which was probably the cause of his speaking in favour of Clodius when accused of violating the *sacra* of the Bona Dea: in B.C. 57 he is mentioned as one of the *pontifices* (har. r. § 12). Cicero speaks highly of him as a man (ep. ad Quint. fr. II 3, 2, in Vatin. § 24) *perpetuum hostem improborum omnium, auctorem publici consili, libertate communi tuenda maxime liberum*, but he did not shine as an orator, *orator Latine non pessime loquebatur, sed erat indoctus, memoria nulla, actione ridiculus*, Brut. § 213, § 216—217, § 220. His son was also a friend of Cicero, the first seven letters of whose second book of *epistulae ad familiares* are addressed to him, but unlike

his father, a profligate. He was married to Fulvia, who afterwards became Antony's wife. As tribune in B.C. 50 he went over to Caesar's side for a great bribe, and on the breaking out of the war served under Caesar in his invasion of Italy, and occupied Sicily, but fell in battle against Juba and the Pompeian party in Africa (B.C. 49).

Transpadanorum] The Latin colonies in that part of Cisalpine Gaul which lay north of the Po, who, not content with the *ius Latii* given them after the Marsic war by the *lex Pompeia*, claimed but were refused the *ius civitatis*, which had been granted to the *Cispadani* and which they afterwards obtained from Caesar when dictator B.C. 49.

l. 5. potius doceret] a past imperative, 'he should rather have proved,' Zumpt Gr. § 529 n., Kenn. Gr. p. 340, Madvig Gramm. § 351 b. 4, Roby Gr. II 1604, cp. in Verr. V 23 *quo tempore—etiam si precario essent rogandi, tamen ab iis impetraretur*, i.e. impetrari debebat, or. Phil. II § 86 *tibi uni peteres* (i.e. petere debebas) with Mayor's note, de orat. I § 167 *causa caderet* with Wilkins' note, de fin. II § 35 with Madvig's note.

non esse aequam] sc. *causam*.

CHAPTER XXIII

§ **89, l. 8. Hecatonis**] § 63.

l. 9. in maxima caritate annonae] 'in a time of very great dearth.' Hand Tursell. III p. 256.

l. 10. familiam] 'his household of slaves,' the primary meaning of the word, so Cicero (ep. ad div. 13. 2) speaks of a familia *liberata*; it is applied also to a 'school of gladiators,' kept together in the same *ludus gladiatorius*, and to a 'sect of philosophers.'

l. 11. utilitate, ut putat, officium dirigit] 'judges duty by the standard of what he fancies is expediency,' whereas in fact it is not so, being opposed to virtue. On *dirigere* cp. § 83 l. 21, de fin. II § 7 *voluptate omnia dirigentes*. So with *ad* pro Mur. § 3 *vitam ad certam rationis normam dirigenti*, § 77 *haec si ad rationem civitatis dirigas*, de rep. II § 55 *exempla ad quae reliqua oratio dirigatur mea*. Hecaton's rule is given in § 83, § 90.

l. 12. humanitate] 'feelings of humanity,' φιλανθρωπία, ἐπιείκεια.

quaerit] 'he puts, raises the question.'

in mari] sc. *in gravi tempestate*.

l. 13. iactura] 'sacrifice by throwing overboard,' I § 34, II § 56.

faciat] The subject is indefinite.

servoli] The diminutive is used to express more forcibly the comparatively small value of the slave, § 73, I § 41, II § 57.

l. 14. **hic**] 'in this case.' **res familiaris**] 'regard for his own estate.'

l. 15. **tabulam**] 'a plank,' 'board.' **de naufragio**] § 82 l. 1.

l. 16. **si potuerit**] In order to indicate more forcibly that the power precedes the action, *si potuero* is sometimes put, when *si potero* might also be employed, e.g. *Plato, si modo interpretari potuero, his fere verbis utitur* de leg. II § 45, Madvig Gr. § 340 *obs.* 3, Zumpt Gr. § 510.

iniurium] a rare word, except in early writers, Ter. Hec. 72 *iniurium autem est ulcisci adversarios?* Andr. 378 *si id succenseat, ipsus sibi esse iniurius videatur*, Adelph. 106 *iniuriumst.*

l. 17. **eripietne suum**] 'shall he seize it from him, as being his own?'

non plus quam] 'no more than'; cf. § 118 *non plus quam amicitia*, § 38 *nihilo plus sibi licere putet peccare quam*, Verr. II 7, 21 *tum nemo molestus Dioni fuerat? non plus quam Liguri*, Kenn. Gr. p. 315.

l. 19. **quo**] i.e. quo ut perveniretur, 'the destination for which he took his passage.'

sumpta] i.e. *conducta*, 'taken up,' engaged to sail by the *navigantes* from the shipowner (*dominus*, Gr. ναύκληρος).

§ **90**, l. 21. **sibine uterque**] Orelli's reading *sibine uter* comes nearest to the MSS, but it is doubtful whether Cicero uses *uter* in the sense of *alteruter*, the passage in Verr. III 14 § 35 *si uter volet, recuperatores dabo* being taken from the praetor's edict.

l. 22. **cedat vero**] 'yes; one should give it up to the other, but let that other be one whose life is more valuable either for his own sake or for that of the state.' On *vero* see Kenn. Gr. p. 329.

vel sua vel rei p. causa] cp. ep. ad Att. VII 1 *si me vellet sua aut reip. causa Luceriam venire.*

l. 23. **si haec paria in utroque**]=*si utrimque pares sint vivendi causae. H.*

l. 25. **micando**] 'in the game of *la morra*,' § 77 l. 25.

P. **41**, l. 1. **cuniculos agat**] 'were to make an underground passage.'

indicet] from *indicare*, 'to give information.'

l. 3. **si arguatur**] 'if he should be publicly accused.'

non igitur] § 77 l. 16 note.

patria praestat omnibus officiis] Observe the brachylogy: '(the duty toward) our fatherland is paramount to every other duty.' The attribute of a thing is often compared, not with the attribute of another thing, but with the thing itself. See I § 76, § 105.

l. 4. **immo vero, sed ipsi p. c.**] 'nay, it *does* (i.e. *patria praestat*) etc., but it is a benefit to the fatherland itself.' Bake (Scholica Hypomnemata v p. 64) suggests the omission of *sed*, so that the clause should run thus: *immo vero ipsi patriae conducit*. Sententiam enim hanc esse oportet in respondendo, 'non praestat patria omnibus officiis, quoniam prius officium est colere pietatem erga parentes, quae pietas conducit patriae.' In justification of his correction he refers to l. 6 *silebitne filius? Immo vero obsecrabit patrem ne id faciat*, i.e. non silebit sed obsecrabit,—*si nihil proficiet, accusabit cet.*

pios] 'dutiful,' to be taken with *in parentes*. Cp. Wopkens Lect. Tull. p. 156 for similar instances of separation of the governing from the governed word.

l. 7. **ne id faciat**] i.e. *ne patriam prodere conetur*, § 83 l. 15.

l. 8. **accusabit**] i.q. *incusabit, obiurgabit, vituperabit*, 'will rebuke,' 'take him to task,' II § 53 *Philippus accusat Alexandrum filium*, Plaut. Curc. I iii 19 (178) *enimvero nequeo durare, quin ego herum accusem meum.*

l. 9. **spectabit**] I § 8, § 25.

§ 91, l. 10. quaerit] sc. Hecato, who quoted the opinions of Diogenes and Antipater, § 51. It has been proposed to transpose §§ 91 and 92 to ch. xiii. because the questions here proposed do not fall under the head of conflict of duties.

adulterinos] 'counterfeit,' κιβδήλους.

l. 11. **imprudens**] 'by an oversight.'

l. 12. **Diogenes—Antipater**] § 51.

ait] 'says yes.'

l. 13. **vinum fugiens**] 'wine that will not keep,' the aroma of which evaporates. Seneca ep. 12, 4 *gratissima sunt poma cum fugiunt, pueritiae maximus in exitu decor est.* Nonius explains *fugere* by *deterius fieri*. Lipsius *ad l.* explains by *iam cedentia aetate et abeuntia.*

l. 15. **quasi controversa iura**] 'like so many controverted, disputed, points of law with the Stoics.' *Controversa* or *dubia iura* are opposed to *ius certum*: pro Mur. § 28 *si id quod oportet responderis,*

idem videare respondisse quod Servius; sin aliter, etiam controversum ius nosse et tractare videaris. Quasi serves to modify the figurative expression.

l. 16. **dicendane]** sub. *quaerit Hecato.*

l. 17. **non ea, quae—redhibeatur iure civili]** 'I do not mean such faults, as if not mentioned, the slave must be returned on the seller's hands, according to the law of the land,' the sale being null and void. *Redhibere* is a technical legal term, Ulpian dig. XXI 1, § 11 redhibere *est facere ut rursus habeat venditor quod habuerit.* The act of returning an object under these circumstances was called *redhibitio*, and a suit brought to compel the seller to receive the object and to return the price was *actio redhibitoria* and so *iudicium redhibitorium.* See Quintl. inst. or. VIII 3, Aul. Gell. N.A. IV 2, XVII 6. Plautus employs the word Merc. II iii 84 *dixit se redhibere si non placeat*, i.e. (the purchaser) 'said that he would return her, if she did not give satisfaction,' Most. III ii 111 *si male emptae forent, nobis has redhibere haud liceret*, where see Ramsay's note.

ea, quae nisi dixeris] § 71.

l. 18. **furacem]** *furax*, 'thievish,' merely marks the slave's character and therefore is not so strong a word as *fur*, which would imply that the slave had been tried and found guilty of theft and therefore could not be warranted by the seller. There is no inconsistency between this sentence and § 71 *qui scire debuit—de furtis, praestat edicto aedilium.* If a slave manifested a thievish disposition by stealing from his master, it was not necessary to declare it when he was offered for sale. But if the owner of a slave, when he offered him for sale, concealed the fact that the slave had made his master liable for damages by stealing from a *third* person, he was responsible and might be required to take the slave back. Marcian dig. XXI de aedil. edict. 1, 52 *si furtum domino fecerit, non est necesse hoc in venditione servi praedicere, nec ex hac causa redhibitio est.*

§ 92, l. 20. **orichalcum]** Gr. ὀρείχαλκον (from ὄρος) literally 'mountain-copper.' The word is also written *aurichalcum*, but inaccurately, the first syllable being short, Hor. A. P. 202 *tibia non ut nunc* orichalco *vincta*, Vergil Aen. XII 87 *auro squalentem alboque* orichalco *loricam*, Plaut. Curc. I sc. 3 l. 45 (201) PH. *auro contra cedo modestum amatorem! a me aurum accipe!* PA. *cedo mihi contra* aurichalco *quoi ego sano serviam!* 'The *orichalcum* of Cicero, which closely resembled gold, was really brass, this alloy of copper

and zinc being the only metallic substance which it is possible to conceive the ancients could have so mistaken,' *Times* (Dec. 25, 1861) *on Dr Percy's Metallurgy.*

l. 22. **sit mille denarium**] 'is a thing worth 1000 denarii,' the genitive of value, whereas definite price requires the ablative. Zumpt Gramm. § 456 *note*, Roby Gr. 1186. Cp. Hor. S. II 3, 156 *quanti emptae? Parvo. Quanti ergo? Octussibus;* pro S. Rosc. § 6 *bona, quae sunt sexagiens*, Verr. III 81 *cum in Sicilia sestertiis binis tritici modius esset.* On the form *denarium* see Kenn. Gr. p. 91, Madv. Gr. § 37 *obs.* 4. The *denarius* was the *silver* coin of the Romans in most currency, though the ordinary unit of reckoning was the sestertius or nummus. It originally contained ten *asses*, subsequently sixteen, and was worth about 8½*d.* of our money, so that *mille denarii*=nearly £35.

perspicuum est iam] 'it is plain enough by this time,' 'we have said enough to make it clear,' § 76.

CHAPTER XXIV

l. 25. **pacta—servanda sint**] h. e. *quaeritur, explicatur*, or some similar verb.

l. 26. **dolo malo**] 'criminal fraud,' 'cozenage,' § 60.

ut praetores solent] sc. *edicere*, 'in the praetor's language.' The edict ran thus Dig. II 14, 7 § 7 *Pacta conventa, quae neque dolo malo neque adversus leges, plebiscita, senatus consulta, edicta principum neque quo fraus cui eorum fiat, facta erunt, servabo.*

si—si] § 30.

l. 27. **medicamentum—ad aquam intercutem**] 'a remedy for, against, dropsy.' Cp. de div. I § 13 *mirari licet, quae sint animadversa a medicis herbarum genera—ad morsus bestiarum, ad oculorum morbos, ad vulnera*, Verr. V § 26 *ad magnitudinem frigorum praeclarum remedium*, Verg. Georg. II 352 *munimen ad imbres*, Cato de R. R. 115 *vinum ad alvum movendam*, c. 123 *vinum ad isiachos*, c. 126 *ad tormina*, Celsus VI 6, 22 *liquidum quoque medicamentum ad idem componebat.*

pepigerit] 'has stipulated,' Tac. Ann. XIII 14 *sane pepigerat Pallas ne cuius facti in praeteritum interrogaretur.* In this signification of 'covenanting' only the perfect forms are used.

P. 42, l. 4. quid faciendum sit] sub. *quaeritur.*

l. 5. **qui non concedat**] 'for not granting him his request' and yet no harm is done him: **nec**=et tamen non § 41 l. 13.

l. 6. **consulendum**] sc. est, § 8.

§ **93**, l. 6. **si qui**] I § 144, III § 19.

l. 7. **sestertium miliens**] i.e. *sestertium milia centena milia* = 100 million sesterces = about £750,000.

l. 8. **ut**] depends on *rogatus sit*.

adeat] 'takes possession of,' 'enters upon.'

l. 9. **saltet**] as though mad or drunk, § 75 l. 19, pro Mur. § 13, p. Deiot. § 26.

l. 10. **scripturus ille non esset**] 'he would not have made him his heir.' On the use of the participle in *-rus* for the subjunctive cp. § 50 l. 12, and see Madvig Gr. § 381, Kenn. Gr. p. 335—6, Roby Gr. 1570.

l. 11. **promisisse nollem**] 'I'm sorry he promised.' For the subj. in quasi-dependence on another verb, cp. Tusc. I § 81 *vellem adesse posset Panaetius*, Verr. IV 20, 43 *nollem dixissem*, ep. ad fam. VII 14, 2 *mallem cognoscerem*, Tusc. I § 12 *mallem Cerberum metueres*, Madvig Gr. § 350 b *obs.* 1, Kenn. Gr. p. 449, Roby Gr. 1606.

l. 12. **fuisse gravitatis**] 'would have become his dignity.' In oratio recta it would have been *fuit gravitatis*, Madv. Gr. § 348 e, *obs.* 1.

l. 13. **honestius mentietur**] = *honestius erit ei mentiri*, I § 128.

l. 14. **ceperit**] sc. hereditatem. With *quam* supply *mentietur*.

l. 15. **magnum tempus**] = grave tempus, 'important occasion,' 'critical time,' I § 29, § 115, II § 60, III § 32, de leg. III § 19 *maximis reip. temporibus praesto esse*.

CHAPTER XXV

§ **94**, l. 16. **ac ne illa quidem cet.**] 'Moreover, neither are those promises to be kept, etc.' On *ac—ne—quidem* see Hand Turs. IV p. 68. For the meaning of *ne—quidem*, for *etiam non* 'neither again' [Germ. *auch nicht*, Gr. *οὐδέ*], where there is no gradation, cp. note to § 16 l. 3, Hand Turs. III p. 60 ff., Madvig excurs. III on Cic. de fin. p. 802 ff., de nat. deor. III § 68 *huic, ut scelus, sic ne ratio quidem defuit*, Brut. § 199 *illud, quod populo non probatur, ne intellegenti quidem auditori probari potest*, Tusc. I § 11, § 12, § 53, § 54.

l. 19. **Phaëthonti**] Ovid Metam. Book II.

ut redeamus ad fabulas] 'to go back to myths,' a parenthetic final clause, Kenn. Gr. p. 458. Cp. de nat. deor. III § 76.

l. 20. **dixit**] i.q. *promisit*.

quidquid optasset] § 77 l. 14 note.

optavit ut—tolleretur] Madvig Gr. § 389 *obs.* 1, cp. § 48 l. 8 *statuerent—ut—naves conscenderent*.

l. 21. **atque is**]=*is vero*, 'and so he,' I § 144 *atque hoc idem si dixisset.*

ante quam constitit] sc. *cum curru.*

l. 22. **melius fuerat**] I § 28, Madvig Gr. § 348 e *obs.* 1, Zumpt Gr. § 518.

in hoc]=*in hac re*, 'in this case,' as I § 35 *in quo si mihi esset obtemperatum*, or 'in the case of this man,' as I § 139 *quod in multis licet dicere.*

l. 23. **quid? quod cet.**] 'what of the fact, that?' 'what shall be said to this, that?' Madv. Gr. § 479 d *obs.* 1.

l. 24. **Theseus**] The three things promised by Neptune to Theseus were (1) safe return from Hades, (2) release from the Labyrinth, (3) the death of Hippolytus; cp. I § 32.

exegit] 'exacted the performance of,' 'obtained the fulfilment of,' de orat. II § 128 *quo facilius a te exigam quod peto, nihil tibi a me postulanti recusabo.* I § 41 *operam exigendam.*

l. 25. **optationes**]=optandi facultates, cp. de orat. II § 364 *adimere omnem recusationem*, i.e. *recusandi facultatem.*

l. 26. **de noverca**] i.e. *quod ad novercam*, cp. Sallust Iug. c. 95 *nisi quod de uxore potuit honestius consuli.* ALLEN. Phaedra calumniated her stepson Hippolytus before his father Theseus. See Ovid Heroid. V 4, and the *Hippolytus* of Euripides.

optato] used as a substantive, in Pis. § 46 *illud accidit praeter optatum meum*, ep. ad fam. II 1, 2 *meis optatis fortuna respondit*, 13, 2 *cur mihi non in optatis sit.*

l. 27. **in maximis fuit luctibus**] Hand Turs. III p. 257. So *in gloria, in honore, in amore esse.*

P. 43, § 95, l. 1. cum devovisset] The commonly received story is that Agamemnon had once killed a stag in the grove of Artemis, and that the goddess was so angry that she required to be propitiated with the sacrifice of his daughter Iphigenia, but that she substituted a stag, and made Iphigenia priestess of her temple at Tauri. Cicero accounts for it in the same way as Euripides Iphig. Taur. v. 20 *ὅ τι γὰρ ἐνιαυτὸς τέκοι κάλλιστον, ηὔξω φωσφόρῳ θύσειν θεᾷ.*

quod—pulcherrimum natum esset] Madvig Gr. § 320 *obs.*, Kenn. Gr. p. 321.

l. 2. **immolavit**] from *in* and *mola* (*salsa*), 'the salt cake,' which was broken and sprinkled over the head of the victim, called *far pium* by Hor. Od. III 23, Gr. *οὐλοχύτη.*

l. 8. promissum potius—admittendum fuit] above § 94 l. 22, 'better not to have kept the promise than have committed so shocking a crime,' 'incurred such horrible guilt.'

l. 6. et—neque] Kenn. Gr. p. 316, cp. Tusc. V § 112 *et dicebat nec deerat*, XIII Philip. § 6 *intellegitis ei et animum praesto fuisse nec consilium defuisse*. So *neque...et*, I § 72 *si quidem nec anxii futuri sunt et...victuri*, III § 1 l. 7.

l. 10. reddasne depositum] 'would you deliver up the trust?' dubitative conjunctive, § 60, § 68, § 83, Zumpt Gr. § 530. Oaths &c. do not bind when the keeping of them will hinder some greater good, or bring some greater evil.

l. 13. temporibus] 'by circumstances,' I § 31, § 39.

l. 14. stare conventis] 'to stand to, abide by, a bargain,' I § 32 *illis promissis non standum esse*, § 110 *suo iudicio stetit*, Seneca de ira I 16 *stat semel constitutis*, Plaut. Curc. II i 35 (l. 250) *quod eis respondi, ea omnes stant sententia*, Madvig Gr. § 227, Zumpt Gr. § 466.

l. 15. commutata utilitate] 'by a change of expediency,' i.e. when the purposes they were intended to serve are reversed, § 72.

l. 16. ac—quidem] § 65 l. 11, Hand Turs. I p. 502.

de eis quae—utilitates] 'of those objects which appear to be expedient under a mask of wisdom, but really are opposed to justice.' On the plural *utilitates* see § 67 l. 12.

§ **96, l. 18. sed quoniam a quattuor cet.]** The four *fontes honestatis* are wisdom, justice, high-mindedness (*fortitudo*) and temperance. Up to this point from c. 7 Cicero has been quoting cases in which 'seeming expediency' is in conflict with one or other of the two first of the four parts of *honestas*,—'wisdom' and 'justice.' But he has been unable to keep the cases coming under these two categories distinct. The difficulty (which he has not surmounted) is this: in most cases when *utilitas* and *honestas* are in conflict, the thing supposed to be expedient (*utile*) is not so, partly because it is *unjust*, and partly because it is really *unwise* though seeming wise. Cicero therefore while discussing these omitted to mention the fourfold division of *honestas*,—the four *fontes honestatis*. The result is that the style of the treatise is somewhat desultory and wanting in scientific exactness. In this passage he endeavours to return to the fourfold division again, and says that he is going to discuss cases in which a contest between *utilitas* and the other two branches of *honestas* is concerned,—*fortitudo* and

temperantia. But even here it will be seen that a contest with *iustitia* is involved as well as with *fortitudo.*

Still, with all these confusions, the chief rule is clear,—if a thing seems 'expedient' test it by seeing whether it is contrary to 'wisdom' (*true* not *false*), 'justice,' 'fortitude,' or 'temperance,' or all combined, the four virtues which make up *honestas*: if it is contrary to them, it is *not* expedient (*utile*), but only *seems* to be,—for *nihil utile quod non honestum* is a postulate in Ethics.

l. 20. **virtutis inimica]** § 117 *libidinum inimica,* I § 63 *veritatis amici,* Tusc. IV § 34 *inimicissimi mentis.* Zumpt Gr. § 410. *virtus* here = *honestas.*

l. 21. **de prudentia]** § 40—§ 70.

quam vult imitari malitia] 'low cunning,' § 71 *eaque malitia quae vult illa quidem videri se esse prudentiam cet.*

l. 22. **de iustitia]** § 71—§ 95.

l. 24. **animi excellentis magnitudine et praestantia]** § 24 *excelsitas animi et magnitudo,* I § 15 *in animi excelsi atque invicti magnitudine et robore,* de fin. V § 36 *virtutes, quarum est excellens in animorum laude praestantia.*

l. 25. **conformatione cet.]** i.e. *conformatione et moderatione motuum animi, quae fit continentia et temperantia,* as Heusinger explains it, 'the improvement and government of it (the mind) by continence and temperance.' Cp. I § 7 *praeceptis quibus in omnes partes usus vitae conformari possit,* de fin. V 6 *inventa vitae via est et conformatio omnium officiorum. Conformatione* seems to apply to *continentiae,* as *moderatione* does to *temperantiae*: *continentia* being rather the restraint imposed upon our outward conduct, *temperantia* expressing, though imperfectly, the Greek σωφροσύνη, 'habitual self-command.'

CHAPTER XXVI

P. 44, § 97, l. 1. utile videbatur cet.] i.e. *militiam supterfugere.* A similar anacoluthon occurs I § 105.

l. 2. **optumum auctorem]** Any person who determines our belief, even as a witness, is called an *auctor.* Thus Tacitus Germ. c. 28, in quoting Iulius Caesar as a witness with respect to the former state of the Gauls, calls him *summus auctorum,* i.e. 'the highest of authorities,' cp. below, § 113 *Polybius, bonus* auctor *in primis,* Hor. Od. I 28, 14 (Pythagoras) *non sordidus* auctor *naturae verique.* As writers, particularly of history, were the authorities for facts, 'auctor' came to

mean 'a writer.' Hence Juvenal sat. VII 231 speaks of a preceptor of the Roman youth being required *ut legat historias,* auctores *noverit omnes tamquam ungues digitosque suos.* Cp. Quintil. inst. orat. I 8 § 18—21, Sir G. C. Lewis *on the Methods of Observation in Politics* I p. 182 n. (2).

l. 3. sed] resumptive after a digression, 'but,' 'however,' 'be that as it may,' I § 4, § 105, II § 73.

insimulant eum tragoediae] The tragic poets, especially Euripides, like to represent Odysseus as crafty and full of intrigue and cowardly, and so they frequently employ this myth, e.g. Sophocles, in his play *Ὀδυσσεὺς μαινόμενος* (Ulysses feigning madness), Euripides frequently, and amongst the Romans Accius and Pacuvius in his *Armorum iudicium.*

l. 5. non honestum] sc. erat.

ut aliquis fortasse dixerit] Heine and others are probably right in bracketing these words as an interpolation. *At* alone is used to introduce an objection which must be answered, § 87 l. 21, § 101 l. 25, Seyffert sch. L. I pp. 130, 134, Kenn. Gr. p. 319.

l. 6. parentibus] Laertes and Anticlea.

l. 7. uxore] Penelope.

filio] Telemachus.

l. 10. ne utilem quidem] See above § 94 l. 16 note.

§ 98, l. 11. quid auditurum putas fuisse] 'how would he have been spoken of, think you?' Madv. Gr. § 381, Kenn. Gr. p. 335, above § 93 l. 10.

l. 12. cum—gesserit] 'although he performed,' II § 35, § 54.

l. 13. ab Aiace] in the *Armorum iudicium* of Pacuvius, from which the lines here quoted are taken. The person spoken of is Odysseus, the speaker Ajax. There is a play by Accius also so called.

l. 14. cuius ipse—fidem] 'he was the only one to set aside the obligation of the oath, which he was himself the first to take, as all of you know.' *Cuius* is to be taken as a monosyllable (Hermann *elem. metr.* I 10, 29). For the allusion see Apollodorus Biblioth. III 10, 9 *τούτων (τῶν μνηστευομένων) ὁρῶν τὸ πλῆθος Τυνδάρεως ἐδεδοίκει μὴ προκριθέντος ἑνὸς στασιάσωσιν οἱ λοιποί. ὑποσχομένου δὲ τοῦ Ὀδυσσέως, ἐὰν συλλάβηται πρὸς τὸν Πηνελόπης αὐτῷ γάμον, ὑποθήσεσθαι τρόπον τινὰ δι' οὗ μηδεμία γενήσεται στάσις, ὡς ὑπέσχετο αὐτῷ συλλήψεσθαι ὁ Τυνδάρεως, πάντας εἶπεν ἐξορκίσαι τοὺς μνηστῆρας βοηθήσειν, ἐὰν ὁ προκριθεὶς νυμφίος ὑπὸ ἄλλου τινὸς ἀδικῆται περὶ τὸν*

γάμον· ἀκούσας δὲ τοῦτο Τυνδάρεως τοὺς μνηστῆρας ἐξορκίζει καὶ Μενέλαον μὲν αὐτὸς αἱρεῖται νυμφίον, Ὀδυσσεῖ δὲ παρὰ Ἰκαρίου μνηστεύεται Πηνελόπην.

l. 16. **furere adsimulare, ne coiret, institit**] 'began to pretend madness, that he might not have to join the expedition.' Cp. Cic. ep. ad fam. X 16 *flagitare* institit, Liv. XXIV 46 institit *oppugnare*, XXVII 2 institit *sequi*, XL 5, 3 *singulos* Cic. *temptare* institit, Aratus 715 *inde sagittipotens superas cum visere lunas* institit, Plaut. Capt. III 4, 52 *vide sis, ne quid tu huic temere* insistas *credere*. *Insistere in aliquid* or *alicui=incumbere, attendere ad aliquid*, but Cic. uses the expression *munus insistere* de or. III § 176. **ne coiret**] i.e. ne simul iret.

l. 17. **Palamedi**] When Ulysses pretending madness yoked an ass and an ox to a plough and began to sow salt, Palamedes, to try him, placed the infant Telemachus before the plough, whereupon the father could not continue to play his part. He stopped the plough, and was obliged to undertake the fulfilment of the promise he had made, when he was one of the suitors of Helen.

l. 18. **istius**] either forms a dactyl or is disyllabic just as *cuius* in l. 14 is monosyllabic.

perspexet] the MSS reading is *percepisset*: cp. *extinxem* Verg. Aen. IV 606, *vixet* XI 118 for *vixisset*, *erepsemus* Hor. Sat. I 5, 79, *summosses* 9, 48, *illexe* for *illexisse* Accius ap. Cic. de n. deor. III § 68, *dixti* or. pro Caec. § 82, *despexe* Plaut. Mil. gl. II 6, 72, *subrexe* Hor. Sat. I 9, 73, *divisse* II 3, 169, *percusti* 273, *surpite* 283, Kenn. Gr. p. 54, Corssen II 553.

audaciam] 'impudence.'

l. 19. **fide**] another form of the genitive *fidei*, ei being contracted into ē, anciently ī, cp. Plancus ap. Cic. ep. ad fam. X 17, 3, Hor. Od. III 7, 4 *constantis iuvenem* fide, Ov. Metam. III 341 *prima* fide—*temptamina*, VI 506 fide *pignus*, VII 728, 737, Kenn. Gr. p. 122.

fide sacratae ius]=ius iurandum.

§ **99**, l. **22**. **consentientem ad**] IV Phil. § 10 *deos* ad *remp. conservandam arbitror* consensisse.

barbaris] i.e. *Phrygibus*, because the Greeks called all besides themselves *βάρβαροι*, de div. II § 82.

l. 23. **externa**] 'foreign instances,' opp. to *nostra*.

l. 24. **Regulus**] I § 39. The story of the embassy of Regulus is pronounced by Niebuhr and others to be quite devoid of historical

foundation. See *Lectures* vi p. 37, *Hist. Rome* iii p. 598. [Cicero is the earliest to mention it. Most subsequent writers record it: Horace, Livy, Valerius Maximus, Appian, Dio. The chief thing against it is the silence of Polybius. S.]

consul iterum] Regulus was consul B.C. 261 and B.C. 256 in the ninth year of the first Punic war. He was defeated by Xanthippus, taken prisoner B.C. 255, when he was proconsul (not consul) in Africa, see *Dict. Gr. and Rom. Biogr.* iii p. 643.

l. 25. ex insidiis] not local but causal: the expression is not warranted by Polybius' narrative, i 32 ff.

l. 26. patre Hannibalis Hamilcare] This is a mistake, for the Hamilcar, who was commander-in-chief at the battle of Tunis B.C. 255, had already conducted the war not without some result in Sicily, while Hamilcar Barcas, Hannibal's father, took the supreme command in Sicily when he was quite a young man, B.C. 247, and had not arrived at old age when he fell in Spain, B.C. 229.

P. 45, l. 1. iuratus—ut]=iure iurando obstrictus ut, § 45 l. 2.

l. 2. captivi nobiles] In the great victory won by L. Caecilius Metellus at Panormus B.C. 250 thirteen noble Carthaginians had been taken prisoners and led in triumphal procession. The Carthaginians, wishing to recover these and others of their citizens, sent an embassy to Rome to propose an exchange of prisoners, and M. Regulus was allowed to accompany the ambassadors upon his promise given to return with them to Carthage, if the negotiation failed. (Pyrrhus had given a similar permission to his Roman prisoners.) But Regulus, thinking that the proposed exchange would be to the advantage of the Carthaginians, nobly dissuaded the senate from consenting to it: 'he himself would be ill-exchanged,' he said, 'for a Carthaginian general in full health and strength, for the Carthaginians, he believed, had given him a secret poison and he felt that he could not live long.' The exchange was refused: Regulus returned to Carthage and soon after died. His springs of life had been poisoned, not by the deliberate crime of the Carthaginians, but by mortification, shame, a pining after his country and the common miseries of a prisoner's condition, at a period when the courtesies of war were unknown. Afterwards the story prevailed, that the Carthaginians in their disappointment had put him to a death of lingering torment; but the story is probably untrue. Arnold's *Hist. of Rome* ii p. 601. See *Dict. of Biography*, Vol. iii p. 644.

l. 4. **res**] 'matter of fact,' § 82 l. 2 n.

l. 5. **domui**] as locative for domi in Cicero is supported by the majority of MSS, Kenn. Gr. p. 120.

l. 6. **communem**] Ter. Phorm. 243 *fili peccatum aut uxoris mortem aut morbum filiae communia esse haec.*

l. 8. **quem censes ?**] i.e. *quem hominem censes negaturum esse*, quin haec utilia sint? At ipsa virtus negat. *Z.*

CHAPTER XXVII

§ **100, l. 9. locupletiores auctores**] i.e. *quam hae virtutes sunt*, 'better authorities,' § 97 l. 2. For the meaning of *locuples* see note to § 10 l. 13 *testis locuples*, § 105 l. 3, de div. II § 119 *Pythagoras et Plato locupletissimi auctores.*

l. 10. **enim**] gives the ground for the statement *magnitudo—negat.*

l. 11. **despicere**] I § 61.

l. 13. **sententiam ne diceret recusavit**] 'declined to give his own opinion in the case.' Cicero might have used the inf. *dicere*, but *quominus* or *ne* with subj. is more common in prose, Zumpt Gr. § 544, Madvig Gr. § 375 *a*. *Recusare* means properly 'to allege a plea (*causa*) for not doing a thing,' 'to find reasons against some one,' hence to enter a protest (not necessarily a refusal). The phrase was originally a legal one, see Jordan on or. pro Caec. § 81.

l. 14. **iure iurando hostium**] i.q. *iurè iurandò hostibus dato*, 'by the oath sworn to his enemies,' or subj. 'which his enemies made him swear.' Eur. Iph. Aul. 391 ὤμοσαν τὸν Τυνδάρειον ὅρκον.

non esse se senatorem] *dixit* or some equivalent verb is to be supplied from *recusavit*. For the sentiment cp. Hor. Od. III 5, 41 *fertur pudicae coniugis osculum parvosque natos, ut* capitis minor, *a se removisse.*

l. 15. **atque illud etiam**] 'and there is this also to be said.' Cf. similar expressions *quid illud? iam hoc; iam vero illud*, P. S. Gr. p. 347, Madv. Gr. § 479 c, Seyff. sch. Lat. I p. 21, p. 44.

l. 17. **illos enim adulescentes esse**] An affirmative idea is to be supplied from the negative verb, as above l. 14, Madvig Gr. § 403 *a, obs.* 2.

l. 18. **cum valuisset auctoritas—neque cet.**] though he had not given his vote as a senator, because a prisoner of war and therefore disfranchised, Liv. XXII c. 60.

l. 20. **neque vero—ignorabat—sed—putabat**] on the tense see

Madvig Gr. § 337. Cp. Hor. l. c. *atqui sciebat, quae sibi barbarus tortor pararet.*

l. 23. tum, cum vigilando necabatur] Kenn. Gr. p. 466. Valer. Maxim. IX 2, 1 says *Karthaginienses Atilium Regulum palpebris resectis machinae, in qua undique praeacuti stimuli eminebant, inclusum vigilantia pariter et continuo tractu doloris necaverunt.* See § 99 l. 2. The story is not mentioned by Polybius, and Dio Cassius (Zonaras VIII 15) regards it as fiction, while Diodorus (fr. l. XXIV. Tom. II p. 566 ed. Wesseling) merely narrates that Regulus' wife had wreaked her vengeance on two Punic prisoners, because the Carthaginians had brought about her husband's death by neglect (ἀμέλεια).

erat in meliore causa] i.e. conditione. Madvig on de fin. I § 49.

§ **101, l. 25. at stulte**] sc. *fecit;* 'but it may be said, he acted like a fool,' § 87, § 97 l. 5, Zumpt Gr. § 771, Madv. Gr. § 479 c.

qui non censuerit] causal subj. 'for not having voted against.'

l. 27. etiamne] sc. *stulte fecit, si id reip. conducebat?*

potest autem cet.] § 52, M. Anton. V 22 ὃ τῇ πόλει οὐκ ἔστι βλαβερόν, οὐδὲ τὸν πολίτην βλάπτει.

l. 28. inutile] 'harmful.' Cf. I § 32 *promissa quae sint eis quibus promiseris inutilia.*

CHAPTER XXVIII

P. 46, l. 3. facere aliter] sc. *quam expetere utilitatem,* § 62 l. 12.

l. 4. qui fugiat] consecutive subj. with qui, so common in interrogative sentences.

l. 6. nusquam] i.q. *nulla in re,* as *hic=hac in re, hinc=hac ex re.*

decore] from *decus,* not *decor,* a word which in Cicero's time was confined to the poets.

l. 7. utilitatis nomen] descriptive genitive, 'the word expediency,' 'expediency in general,' cf. II § 2 philosophiae *nomen,* de fin. II § 78 *amare, e quo nomen* amicitiae *ductum est.* Cp. § 70 l. 7.

l. 8. non tam splendidum quam necessarium] 'not so much honourable as indispensable': § 20 *tamen splendidius haec ab eis disseruntur,* I § 61. *Necessarium* 'a necessary principle of man's life,' one of the *fundamenta naturae,* I § 127 *partium corporis usus sunt necessarii.*

§ **102, l. 9. quid est—in iure iurando?**]=quae vis est, 'what is there in an oath? of what consequence is it?' II § 19, III § 104.

dixerit quis] potential conjunctive § 29 l. 8, § 110 l. 6, P. S. Gr. p. 338.

l. 10. hoc quidem] i.e. haec sententia, sc. *numquam nec irasci deum nec nocere*. Tr. 'it is not so; but this is the universal opinion.'

l. 11. qui deum nihil habere cet.] the doctrine of the Epicureans, cp. de nat. deor. I § 51 *nihil enim agit, nullis occupationibus est inplicatus, nulla opera molitur, sua sapientia et virtute gaudet, habet exploratum fore se semper cum in maximis, tum in aeternis voluptatibus*, ib. II § 59 *Epicurus monogrammos deos et* nihil agentes *commentus est*, de leg. I § 21, Lucret. I 57, V 83. Cp. Diog. Laert. X 139 *τὸ μακάριον καὶ ἄφθαρτον οὔτε αὐτὸ πράγματα ἔχει οὔτε ἄλλῳ παρέχει, ὥστε οὔτε ὀργαῖς οὔτε χάρισι συνέχεται* translated by Cic. de nat. d. I 45.

l. 12. nihil exhibere] sc. *negotii*, § 112 l. 12.

l. 13. deum semper agere aliquid] the doctrine of the Stoics especially (and to a certain extent also of the Peripatetics and Academics) who believed in divine Providence and the moral government of the world.

l. 14. numquam nec] on *nec—nec* used partitively after the general *numquam* see I § 66, II § 84. So § 36 l. 25 *nihil nec taetrius nec foedius*.

nec irasci deum nec nocere] § 104, II § 12, Seneca de ira II 27, I *quaedam sunt quae nocere non possunt nullamque vim nisi beneficam et salutarem habent, ut di inmortales qui nec volunt obesse nec possunt*. Not that they thought that the Gods did not kill by the stroke of lightning, or that the Furies did not punish the guilty with tortures. That the Godhead who governed the whole world and took care of individuals punished the wicked by the natural consequences of their sin, was the doctrine held by the Stoics, Plut. St. rep. 15, 32, Arrian ap. Stobae. ecl. I p. 132. Plato also taught the punishment of the wicked in a future life, Phaed. 80 E.

l. 16. quae perverteret] consecutive subj. expressing result, 'such that it should overturn it,' so that it should no longer be *utilitas*, § 101 *pervertunt fundamenta naturae*, I § 5 *officium omne pervertunt*.

l. 17. an ne] sub. *timuit* from *timemus*, or perhaps *an ideo servandum fuit ius iurandum ne*, 'was it to avoid acting basely that he must keep his oath? as to that, in the first place, always of two evils choose the least.'

minima de malis] sc. *eligenda sunt*: such ellipses are common in proverbial sayings, I § 82 *ne quid temere*, Ter. Andr. 61 *ne quid nimis*, Madvig § 479 d. obs. I. Cp. Arist. eth. nic. II 9, 2 *τὰ ἐλάχιστα ληπτέον τῶν κακῶν*.

l. 18. **turpitudo ista**] 'the baseness you speak of' (i.e. of Regulus breaking his oath). 'Was there, then, evil in it as great as that of the tortures which he had to endure?'

l. 19. **habebat**] So Müller; the MSS have *habebit.*

deinde—Accium] 'then again, the following sentiment also in Accius.' The passage is in the play called *Atreus*, § 84, § 106. Thyestes says to Atreus 'have you not broken your oath?' to which Atreus replies, *neque dedi cet.* The argument is 'Men are not obliged to keep their oaths to treacherous people and such the Carthaginians were,' therefore Regulus needed not to have kept his oath to them.

l. 21. **fregistin**]=nonne fregisti? So *estne* for *nonne est* pro Rosc. Am. § 33, *videtisne* for *nonne videtis* ib. § 66.

l. 23. **impio rege**] Atreus.

luculente] § 60 l. 14, i.e. 'excellently,' 'well,' referring to the second line of the quotation.

P. 47, § 103, l. 1. addunt etiam] This is the third objection, stated directly. He reverts to the indirect form in l. 7.

l. 3. **hoc ipsum**] sc. *revertisse*, § 49 l. 3 *hoc ipsum putare*, II § 84 *hoc ipsum—peccare.*

videtur] for *videtur*, *fit*, *debuit* we should have expected *videatur*, *fieri*, *debuerit*, in the *oratio obliqua;* but the construction is changed to the *oratio recta.*

l. 5. **per vim hostium**] i.q. *ab hostibus per vim.*

l. 7. **videretur**] On the change of tenses, cp. I § 87 *contenderent*, II § 56 *cogerentur*. In *recta oratio* it would have been *etiamsi non videbatur.*

CHAPTER XXIX

§ 104, l. 9. non fuit Iuppiter metuendus ne] by prolepsis for *non fuit metuendum ne Iuppiter—noceret.* Cp. II § 44 *in eum quid agat inquiritur*, cp. ad fam. VIII 10 3 *nosti Marcellum quam tardus sit.*

l. 10. **nec nocere**] cp. Seneca de ira II 27 § 2 *quaedam sunt quae* nocere *non possunt nullamque vim nisi beneficam et salutarem habent, ut di immortales, qui* nec volunt obesse nec possunt.

ratio] 'argument.'

l. 12. **non qui metus cet.**] 'what there is to be afraid of.' In the case of an oath, it is not the penal consequences (to be feared from breaking it), but the nature and obligation of the oath, which we ought clearly to understand.

l. 14. **adfirmate**] 'positively, solemnly.'

l. 15. **iam—pertinet**] 'the question then no longer concerns the resentment of the gods (i.e. as to whether the gods do or do not punish perjury), for there is no such thing, but the obligations of justice and truth (i.e. as to whether a man who has committed a breach of promise can be considered just or no).' iam—non = Gr. *οὐκέτι*, 'not as before,' 'no more,' Hand Turs. III p. 130.

l. 18. **O Fides**] This verse, as also those quoted I § 26, II § 23, is taken according to Ribbeck (Tragic. fr. p. 71) from the *Thyestes* of Ennius.

apta pinnis] 'fitted with pinions, furnished'; *aptus* is a participle from root AP (whence *apiscor*, *adipiscor*) = Sanskrit âp, 'go to,' hence 'obtain.' Cp. I § 60 *ex quo aptum est officium*, Vergil Aen. XI 202 *caelum stellis fulgentibus aptum*. This and the other epithet *alma* serve to indicate the Divinity of the personified *Fides*.

ius iurandum Iovis] oath sworn by Iuppiter iurarius (Ζεὺς ὅρκιος), § 100 l. 14 *ius iurandum hostium* 'an oath *to* the enemy.'

l. 19. **igitur**] sc. *quia ius iurandum ad fidem pertinet*.

l. 20. **in Capitolio vicinam Iovis**] de nat. deor. II § 61 *tum autem res ipsa, in qua vis inest maior aliqua, sic appellatur, ut ea ipsa nominetur deus, ut Fides, ut Mens; quas in Capitolio dedicatas videmus proxime a M. Aemilio Scauro* (I §§ 76, 138): *ante autem ab A. Atilio Calatino* (dictator B.C. 249) *erat Fides consecrata*. The cultus of Fides may be traced back to Numa, Plutarch Num. 16 πρῶτον δέ φασι καὶ Πίστεως καὶ Τέρμονος ἱερὸν ἱδρύσασθαι, καὶ τὴν μὲν Πίστιν ὅρκον ἀποδεῖξαι Ῥωμαίοις μέγιστον, ᾧ χρώμενοι μέχρι νῦν διατελοῦσιν, Liv. I 21. For **vicinam** cp. ad Att. 12, 45 *de Caesare vicino* of the statue of Caesar placed in the temple of Quirinus, near the house of Atticus.

l. 21. **Catonis**] i.e. M. Porcius Cato, we don't know in which of his speeches.

§ **105**, l. 22. **at enim**] § 79 l. 1, I § 144.

l. 23. **certe**] 'this is true,' 'undoubtedly.'

l. 24. **non modo non**] Madvig Gr. § 461 a *obs.* 2, de orat. II § 294 *ut non modo non abiecto sed ne reiecto quidem scuto fugere videar*, in Cat. IV 9, 19 *id ne umquam post hoc non modo non confici sed ne cogitari quidem possit*.

l. 25. **maxima auctoritate philosophi**] the Stoics, II § 10.

P. 48, l. 1. **testem**] Regulus by his actions was 'a voucher for,' 'a witness to,' the truth of the philosophers' doctrines.

l. 2. **haud scio an**] § 6 l. 4 note.

l. 3. **locupletiorem**] § 100 l. 9.

l. 4. **qui subierit**] consecutive subj. § 3 l. 3.

retinendi offici] I § 82 *recta atque honesta retinere.*

l. 6. **nam quod aiunt**] see note to § 110 l. 14.

minima de malis] sc. eligenda sunt, § 102 l. 17.

ut turpiter] sc. fiat or facias, Madv. Gr. § 479 c.

l. 7. **an est ullum**] 'as to their assertion 'the least of evils'...(do you allow this or) can there be any greater evil etc.?' Cp. ad fam. II 16, 5 *nam quod rogas, ut respiciam generum meum—an dubitas, cum scias quanti illum faciam, quin ea me cura sollicitet*, Madvig Gr. § 453, Zumpt Gr. § 353, Kenn. p. 327, Roby Gr. II 2255 '*an* is frequently used in a question apparently simple, but which may be regarded as really the second member of an alternative question, the first being either not put in the form of a question or left to be inferred from the context. It introduces questions which imply the needlessness of the preceding remark, or meets an anticipated objection.'

l. 8. **in deformitate corporis**] 'in the case of bodily deformity.'

habet aliquid offensionis] I § 71. Cp. ad fam. X 18, 1 *ut consilium sequerer...quod* habere *posset obtrectationem*, ib. § 3 *nam quae res nullam* habebat *dubitationem .... ea nunc magnum* habet *casum.*

l. 9. **turpificati**] a ἅπαξ λεγόμενον, like *mitificatus* de div. II § 57, formed after the analogy of *amplificatus, sacrificatus*, since the verb *turpifico* is not found.

§ **106**, l. 10. **nervosius—remissius**] 'more strongly'—'with more laxity,' the Stoics (§ 35)—the Peripatetics (§§ 20, 33): Cic. orat. § 127 *dicetur non Peripateticorum more—sed aliquanto nervosius*, Brut. § 121 *quis enim uberior in dicendo Platone? quis Aristotele nervosior?*, Tusc. III 22.

ista disserunt] *disserere* is often construed with the accusative of the object, if a pronoun, rarely if a noun, as Tac. ann. I 4 *bona libertatis disserere.*

l. 14. **nam**] See note to § 84 l. 10.

illud quidem] i.e. *illud Accianum*, 'the following line (of Accius),' § 102. Grotius (II p. 101) says, 'that oaths to a faithless person are not to be kept, if the sworn promise had evidently respect to another promise, which was a sort of implied condition; but they are to be kept if the promises are of a diverse kind and without mutual reference: for hen each must observe what he has sworn.'

l. 16. **recte a poeta**] sc. dictum est, § 60 l. 14.

cum tractaretur cet.] 'when the character of Atreus was represented, the poet had to support (lit. 'to be a slave to') the character of the person introduced.' Cp. or. p. Rosc. Com. 20 *personam—tractare.*

personae serviendum fuit] for the sentiment cp. I § 97.

l. 17. **sed si hoc sibi sument**] 'but if they (who are arguing against Regulus) assume (or vindicate) this principle, that that is no promise which is pledged to the faithless, let them look to it, that it be not a mere subterfuge for perjury that they seek,' I § 28. On *latebra* cp. de fin. II § 105 *nam si 'tuam' dicerem, latebram haberes,* de div. II § 46 *te mirificam in latebram coniecisti.*

nullam] 'null and void,' II § 15 *sine quibus ista omnino nulla esse potuisset.*

§ **107,** l. **19. est autem cet.**] Heine ed. 5 objects to this passage as spoiling the connexion, as *quod enim ita cet.* refers immediately to *videant ne quaeratur latebra periurio.* In the preceding passage Cicero was speaking of the 'faithless' man (*infidelis*), not of an 'enemy.' Moreover (he argues) an oath made to an enemy, which *hostis* here means as is shewn by *ius bellicum*, is binding at all times and not merely *saepe.* Heine also objects to *fides—cum hoste* as bad Latin. But the quotations below shew that *servare fidem cum* is correct. Nor is there anything in his objection that an oath to an enemy is binding at all times and not merely *saepe.* For in that case the limitation *ita, ut mens conciperet* would be pointless. *quod enim* etc. does not refer to *videant ne,* but *est autem* introduces a separate excursus on keeping faith with an enemy, extending to § 109.

fidesque—cum hoste servanda] Plaut. Pseud. I 3, 142 *si tu argentum attuleris, cum illo perdidero fidem,* Capt. 930 *tecum servari fidem,* Ter. Phorm. 512 *nequeo exorare ut me maneat et cum illo ut mutet fidem.*

l. 20. **quod enim cet.**, 'viz. an oath which has been sworn in such a manner that in the mind [of the swearer of that oath] there was an idea present that it ought to be performed, must be kept. But in the case of an oath, in which it is otherwise (i.e. in which you did not think at the time you swore it that it ought to be performed), it is not perjury to break it.' Grotius misunderstood this passage from supposing that Cicero was speaking of the intention of the person who administers the oath, de iure b. ac p. II xiii 2 (Vol. II p. 86 ed. Whewell).

enim] 'namely.'

ut mens conciperet] i.q. *homo mente conciperet.* Notice the tense representing *concipiebat* in oratio recta.

l. **21. quod aliter**] sc. *iuratum est.* This is the doctrine of the Stoics: Stobaeus ecl. eth. p. 230 τῷ μέντοι ψεύδει ποτὲ συγχρήσεσθαι νομίζουσι τὸν σοφὸν κατὰ πολλοὺς τρόπους ἄνευ συγκαταθέσεως (i.e. *ubi mens non concipit id fieri oportere*). καὶ γὰρ κατὰ στρατηγίαν πρὸς τῶν ἀντιπάλων καὶ κατὰ τὴν τοῦ συμφέροντος πρόορασιν cet. The Stoics recognised something very like 'mental reservation.'

l. **22. fecerit**] sc. *is qui iuravit,* indefinite subject, I § 101.

nullum est periurium] 'it does not count as perjury,' § 59 l. 7.

ut] 'as for example,' cp. I § 32 *illis promissis standum non esse quis non videt, quae coactus quis metu, quae deceptus dolo promiserit?*

l. **23. pactum—pretium**] passive: I § 33 *induciae pactae,* Zumpt Gr. § 632.

l. **24. id non feceris**] h.e. *pretium non attuleris,* § 30 l. 17, § 54 l. 3, § 83 l. 10.

P. 49, l. 1. non ex perduellium numero definitus] for *ita definitus ut sit in perd. numero,* cp. de orat. I § 108 *nam si ars ita definitur ex rebus perspectis planeque cognitis—, non mihi videtur ars oratoris esse ulla.*

perduellium] 'regular enemies.' *Duellum* 'division' is an older form of *bellum,* as *duis* for *bis, duonus* for *bonus.* Grotius *l.c.* II xiii 15, 1 refutes this position of Cicero, after approving of the conduct of Pomponius, Regulus and other instances adduced by Cicero; he says that oaths may be exchanged *inter quosvis:* the reason is that 'we are not to have respect to the person to whom the oath is made, but to God by whom we swear; and this is sufficient to produce an obligation.' He then proceeds to say that 'though the law of Nations recognises a distinction between an enemy and a robber, yet this difference cannot hold, when, though the right of the person fail, our business is with the Deity.' See also Whewell's *Elements of Morality* III ch. 15.

§ 108, l. 3. non enim] I § 62. Translate: 'for it is not the simply swearing what is false that constitutes perjury, but perjury is the non-performance of that which you have taken an oath upon your conscience (*ex animi tui sententia*), as our law-forms express it, to perform.' Cp. I § 40 *semper autem in fide quid senseris, non quid dixeris cogitandum,* Acad. II § 146 *quam rationem maiorum etiam comprobat diligentia, qui primum iurare 'ex sui animi sententia' quemque*

voluerunt. deinde ita teneri 'si sciens falleret.' The phrase *ex animi sententia* means also 'according to your liking.'.

l. 6. Euripides] Hippol. 612 ἡ γλῶσσ' ὀμώμοχ', ἡ δὲ φρὴν ἀνώμοτος: 'where,' says Paley, 'the meaning is, that the words of the oath were uttered without a full knowledge of the facts of the case, and therefore the oath is not binding.' In casuistry this holds good. Aristophanes, who in Ranae 1417 and elsewhere ridicules this verse, gives it a wrong meaning by making the remark a general one. It is clear that the verse was often quoted, even by Plato, in a sense which the poet never intended. Plautus Rudens v. 1355 renders it, *meus arbitratust lingua quod iuret mea.*

l. 9. hostiles] i.e. cum hostibus factas.

perturbare] i.q. *violare*, 'to break through.'

cum iusto hoste] 'a regular, formal enemy'=perduellis § 107, *qui bellum gerit legitime denunciatum et indictum*, I § 36. *Iustus* signifies anything which is 'complete' or fit in its kind, and not excessive. Hence *iusta pugna* 'a regular pitched battle' in opposition to *tumultuaria*, Liv. XXII 28 with Fabri's note, XXXIV 28, *iustum proelium* ib. XXIII 37, 8, 40, 9, *iusta acie* XXII 24, 11.

l. 10. adversus quem—sunt iura communia] Cp. I § 33 *officia* adversus *eos servanda*, II § 68 *excusatio* adversus *eos*, Liv. V 35, 4 *quamquam* adversus *Romanos nullum eis ius societatis amicitiaeve erat*, ib. X 11 *quamquam necessaria iam facta* adversus *Romanos fides sit*, ib. XLV 8 *cum pacis, quam cum summa fide* adversus *eum coluimus, meminisses.* On *ius fetiale*, 'international law,' see Ramsay *Rom. Antiq.* pp. 113, 379. On *multa* for multa alia see Madvig de fin. I § 18 and cp. I § 23, § 71.

CHAPTER XXX

§ **109, l. 13. at vero**] 'whereas in fact,' II § 70, § 80.

l. 14. cum male pugnatum apud Caudium esset] Caudium was a town of Samnium, between Calatea and Beneventum, from which the famous pass *furcae Caudinae* is named, where the Romans were defeated by Gaius Pontius, son of Gaius Pontius Herennius, in the second Samnite war, B.C. 321. The senate refused to ratify the treaty made with Pontius, and the defeated consuls themselves voted against the ratification of it, Livy IX 5, 10.

l. 15. sub iugum missis] Liv. III 28.

l. 17. iniussu enim populi senatusque fecerant] The senate considered it in the light of a *sponsio*, 'a convention made on personal

responsibility,' rather than a *pactio* or *foedus*, 'public treaty.' See for the distinction Grotius, de iure b. ac p. II xv (Vol. II p. 128 ff. ed. Whewell), where the validity of the Caudine and Numantian conventions is considered.

l. 18. **Ti. Numicius**] according to Livy IX 8, 13 it was L. Livius.

tribuni plebis] probably only tribunes-designate. Niebuhr's *Hist. of Rome* Vol. III p. 220. The tribunes could not leave the city.

l. 19. **pax Samnitium**] 'peace with the Samnites.' For this objective genitive instead of preposition cp. I § 97 *praestantia animantium*, III § 86 *Pyrrhi bello*, Justin XII 1 *qui Philippi—pacem soli spreverant*.

l. 20. **deditionis suasor et auctor**] 'adviser and supporter of the rendition.'

l. 21. **qui dedebatur**] 'who was thereby delivered up,' i.e. was to be delivered up, Madvig Gr. § 337 *obs.* 1.

quod idem] 'as also,' like *idque* II § 65.

l. 22. **multis annis post**] 184 years. C. Hostilius Mancinus was consul B.C. 137 with M. Aemilius Lepidus Porcina and had the conduct of the war against Numantia. Being defeated by the enemy he negotiated a peace through the intervention of his quaestor Tib. Gracchus, but the senate refused to recognise it and delivered the consul over to the enemy by means of the *fetiales*. This was done with the consent of Mancinus, but the enemy refused to accept him. On his return to Rome Mancinus took his seat in the senate, as heretofore, but was expelled violently from it by the tribune P. Rutilius, on the ground that he had lost his citizenship. His civic rights were restored to him by a special *lex* (dig. 50 tit. 17). Appian de reb. Hispan. 79—83, Valer. Max. I 6 § 7, Vell. Paterc. II 1, Cic. de orat. I § 181, § 238, II § 137, pro Caec. § 98, Top. § 37, de rep. III § 28, Plutarch Tib. Gr. c. 7. See *Dict. of Biog.* II p. 194.

l. 23. **sine senatus auctoritate**] 'without warning from the senate.'

l. 24. **Furius—Atilius**] L. Furius Philus—Sextus Atilius Serranus, consuls B.C. 136.

l. 26. **honestius hic**] sc. fecit.

Q. Pompeius] Quintus Pompeius A. F., consul B.C. 140 with Cn. Servilius Caepio, the first member of the Pompeia gens who obtained the consulship (*humili atque obscuro loco natus maximis suis periculis ac laboribus amplissimos honores est adeptus* Verr. V 70 § 181, *non contemptus orator temporibus illis fuit, qui summos honores homo per se cognitus sine ulla commendatione maiorum est adeptus* Brut. § 96, pro

Mur. § 16). He was sent into nearer Spain, as the successor of Q. Metellus (Val. Max. IX 3, 7), where, after in vain laying siege to Numantia, he concluded a treaty with the enemy, but disowned it on the arrival of his successor M. Popillius Laenas, and, on the matter being referred to the senate, they declared it invalid. Pompeius was made censor B.C. 131, the first time that both censors were chosen from the *plebs*. Appian de reb. Hisp. 76—79.

cum in eadem causa esset] 'though he was in the same case' as Mancinus, i.e. having made a degrading peace with the Numantines. Cp. § 100 l. 23 *erat in meliore causa*, I § 112, II § 61.

P. 60, l. 1. deprecante] 'begging to be let off,' *παραιτουμένου*. By *lex* is meant the law for delivering him up to the enemy.

hic] 'in this case,' viz. that of Pompeius, § 89 l. 14 *hic alio ducit humanitas*.

l. 3. superiores] Veturius, Postumius and Mancinus.

§ 110, l. 5. at non debuit] the answer to § 103 l. 5.

l. 6. quasi vero forti viro vis possit adhiberi] The doctrine of the Stoics, that the wise man cannot be forced, follows from their theory of the freedom and self-sufficiency of the wise man. Seneca de benef. III c. 20 *corpora obnoxia sunt et adscripta dominis, mens quidem sui iuris.—Corpus itaque est quod domino fortuna tradidit; hoc emit, hoc vendit: interior illa pars mancipio dari non potest. Ab hac quidquid venit liberum est.* On *quasi vero* see § 39 l. 7 n.

cur igitur] i.e. *si nulla vi cogi potuit.*

l. 7. cum praesertim] 'and that though,' II § 56.

de] 'in the matter of,' I § 47 *de benevolentia*.

l. 9. suo iudicio stetit] i.q. in s. i. acquievit (*ἐνέμεινε*): 'for he (Regulus) did not rest upon, was not determined by, his own judgment, but undertook the cause (i.e. pleaded it like an advocate in a court of law), leaving the issue to the senate.' Cp. § 95 l. 14 *stare conventis*, Tusc. II § 63 *te si in oculis multitudinis sis, tamen eius iudicio stare nolim*, V § 81 *omnia ad suum arbitrium referre, suis stare iudiciis*, ep. ad Att. VIII 4 *tuo potius stabam iudicio quam meo*, Cluent. § 96 *his rebus iudicatis standum.*

l. 10. cui] sc. senatui.

auctor] § 109 l. 21.

l. 13. sentire illa] 'to express that opinion,' cp. fam. XI 21, 2 *cum ego sensissem de eis, qui exercitus haberent, sententiam ferri oportere, illi reclamarunt.*

l. 14. nam quod aiunt] 'for, as to their assertion,' § 84 l. 10, § 105 l. 6, I § 118, Madvig Gr. 398 b *obs.* 2. 'Nam quod, formula transeundi et conectendi. Cic. ep. ad Att. III 10 *nam quod me tam saepe obiurgas*, Terent. Adelph. prolog. 15 *nam quod isti dicunt malevoli.*' Ruhnken *dictata ad Ter. Haut. T. prolog.* 16.

l. 15. immo vero] *dicendum erat*, or *dicere debuerunt*, must be understood from *aiunt*. Cicero means that a thing cannot be made right by its being expedient, if it were otherwise wrong, for, as he has already shewn, Rectitude and Expediency coincide. For the elliptical constr. cf. § 105 l. 7.

quod idem] 'which also,' I § 63, II § 10, Zumpt Gr. § 697.

l. 18. dixerit] § 102 l. 9.

hoc exemplo] sc. of Regulus.

praestantius] sc. aliquod esse exemplum.

CHAPTER XXXI

§ 111, l. 20. ex tota hac laude] i.e. *cum multa sint laudanda*, 'of all that is thus meritorious in the conduct of Regulus this act above all others demands our admiration, that he voted for the detention of the prisoners.'

unum] 'only one thing,' § 12 l. 12.

l. 23. non est hominis, sed temporum] 'does not apply to the individual alone, but to the times,' i.e. the sentiments then prevailing, II § 76 *laus abstinentiae non hominis est solum, sed etiam temporum illorum.*

P. 51, l. 3. in duodecim tabulis] de leg. II § 22 *periuri poena divina exitium, humana dedecus.* According to Aul. Gell. (XXI 53) anyone *qui falsum testimonium dixisse convictus esset* was flung from the Tarpeian rock.

indicant sacratae] Festus p. 318 *sacratae leges sunt, quibus sanctum est, qui quid adversus eas fecerit, sacer alicui deorum sit cum familia pecuniaque. Sunt qui esse dicant sacratas, quas plebes in monte sacro sciverit.*

l. 5. notiones animadversionesque censorum] 'the stigma of the censors and the punishments inflicted by them.' Pro Sest. § 55 *censoria notio et gravissimum iudicium sanctissimi magistratus*, de prov. cons. § 46 *statuendum est...censorium iudicium ac notionem et*

illud morum severissimum magisterium non esse nefariis legibus de civitate sublatum, in Pis. § 10, pro domo § 34 *notio pontificum*, A. Gell. XVII 18 *notiones censorias*, Liv. XXVII 25 where see Gronovius. *notiones*=*notae*, as *praeceptio* for *praeceptum* etc.

l. 6. iudicabant] 'used to judge,' implying that their power had perished with the Commonwealth.

§ **112, l. 7. L. Manlio**] L. Manlius A.F.A.N. Capitolinus Imperiosus, dictator B.C. 363, *clavi figendi caussa creatus, perinde ac rei publicae gerendae ac non solvendae religionis gratia creatus esset, bellum Hernicum affectans, delectu acerbo iuventutem agitavit; tandemque, omnibus in eum tribunis plebis coortis,—dictatura abiit. Neque eo minus principio insequentis anni—dies Manlio dicitur a M. Pomponio tr. pl.* Liv. VII 3, 4. [Cp. Seneca de benef. III 37, 4 *vicit patrem imperiosum quidem* Manlius: *qui cum ante tempus relegatus esset a patre ob adulescentiam brutam et hebetem, ad tribunum plebis, qui patri suo dixerat diem, venit petitoque tempore, quod ille dederat sperans fore proditorem patris invisi, et bene meruisse se de iuvene credebat, cuius exilium pro gravissimo crimine inter alia* Manlio *obiciebat, nanctus adulescens secretum stringit occultatum sinu ferrum et* 'nisi iuras' *inquit* 'te diem patri remissurum, hoc te gladio transfodiam: in tua potestate est, utro modo pater meus accusatorem non habeat.' *Iuravit tribunus nec fefellit et causam actionis remissae concioni reddidit. Nulli alii licuit inpune tribunum in ordinem redigere.* J. E. B. M.]

l. 8. diem dixit] 'gave formal notice of an impeachment,' Ramsay, *Rom. Antiq.* p. 288 [p. 332 ed. 1894].

quod addidisset] subj. in suboblique causal clause, P. S. Gr. p. 459, Madvig Gr. § 357 a, Roby Gr. II 1744.

l. 11. quod cum audivisset—filius negotium exhiberi cet.] Madvig Gr. § 449; *negotium exhiberi* (§ 102) is epexegetic of *quod:* cp. II § 29, III § 102 *hoc commune est—numquam nec irasci deum nec nocere.*

l. 13. cum primo luci] The MSS have *cum prima luce*, Bern. c *primo lucis.* Nonius p. 210 says expressly that Cicero in the present passage used *lux* in the masculine. It is probable therefore that the original reading here was *primo luci. Lux* is found in the masculine in the locative in Plautus Aul. IV 10, 18 (741) *luci claro* where see Dr Wagner's note p. 150, Cist. II 1, 58, Ter. Adelph. 841 *cum primo luci.*

Pomponi domum] Zumpt Gr. § 400.

l. 14. cui cum...nuntiatum] unusual for *cui cum res nuntiata esset.*

qui—arbitraretur] 'inasmuch as he thought,' an adjectival causal clause, P. S. Gr. § 210, Madvig Gr. § 366.

l. 16. **remotis arbitris**] 'when he had put out of the room all witnesses.' Verr. II 31 § 80 *ab* arbitris *remoto loco*, 'in a spot safe from intruders,' Sall. Cat. c. 20 *omnibus* arbitris *procul amotis*. Arbiter is from ar (ad) and the root BIT 'to go,' Long Verr. p. 577, Peile Gr. and Lat. Etym. p. 339—340.

l. 17. **ut**] i.q. postquam, § 38 l. 19.

l. 19. **dedisset**] On the tense see § 77 n.

hoc terrore] For *huius rei terrore*.

l. 21. **causa desistere**] 'to drop the prosecution,' § 15 l. 15 *desistunt facile sententia*, Zumpt Gr. § 564.

l. 23. **ad Anienem**] 'by the Anio,' B.C. 340, when he and his colleague P. Decius Mus gained the great victory over the Latins at the foot of Vesuvius, which established for ever the supremacy of Rome over Latium.

l. 24. **cognomen invenit**] de div. I § 16 *quae* nomen *ex imperatore* repperit, Tusc. IV § 49 *Torquatum quidem illum, qui hoc* cognomen invenit, de fin. I § 23 *eum Torquatum qui hoc primus* cognomen invenit, de leg. I § 58 *sapientia, a cuius amore graeco verbo philosophia* nomen invenit.

l. 25. **ad Veserim**] 'by the Veseris,' a river in Campania near Mount Vesuvius. [Or 'near *Veseris*,' a town which has been shewn to have existed by coins, see Imhoof-Blumer Numismat. Zeitschr. 1886. Conway *Italic Dialects* vol. I p. 141. The expression in Livy is more appropriate to a town than a river. S.] The battle is commonly called 'the Battle of Vesuvius.' It was in the Latin war and is celebrated for the devotion to death of Manlius' colleague P. Decius Mus, Livy VIII 1 *pugnatum est haud procul radicibus Vesuvii montis, qua via ad* Veserim *ferebat*.

l. 26. **perindulgens**] sc. fuerat.

l. 27. **acerbe severus**] cp. Tusc. V § 6 *impie ingratus*, de or. III § 202 *distincte concisa brevitas*, or. p. Mur. § 26 *huic tam loquaciter litigioso*.

in filium] whom he ordered to be beheaded for fighting contrary to orders although successfully, thereby exhibiting an extraordinary example of discipline. This was just before the battle of Vesuvius, Livy VIII 7 ff. Hence the expression Manliana *imperia* to signify any unnatural rigour. See Mozley's *Ruling Ideas in early Ages*, 2d ed. pp. 58—59.

CHAPTER XXXII

P. 52, § 113, l. 1. decem illi cet.] The same story is told I § 40. Aulus Gellius N. A. VII 18 says that two of the ten returned, and that their *fraudulenta calliditas* was reckoned so *turpis* that they were *contempti vulgo discerptique*, and that the censors (one of whom according to Valerius Maximus II ix 8 was the son of the Regulus just mentioned) visited them afterwards *omnium notarum et damnis et ignominiis, quoniam, quod facturos deiuraverunt, non fecissent.* See also Livy XXII c. 61.

l. 2. iuratos cet.] i.e. *cum iurassent se in castra redituros esse.*

l. 3. quorum erant potiti] 'of which they were in possession.' Madvig Gr. § 265, Roby Gr. II 1334. The Romans had two camps on the banks of the Aufidus. Hannibal took both on the same conditions, that the horses and arms should be given up and the captives be ransomed: out of the larger one a great part of the garrison had already broken through the enemy's lines and made their escape to Canusium.

quorum potiti] Cicero only once uses *potiti* with any other genitive than *rerum.* It is here perhaps borrowed from the original source as *primo luci* in § 112 l. 13.

nisi impetravissent] § 112 l. 18.

l. 4. si non redierunt] 'if it is true that they did not return.' Cicero adds these words, because accounts differ as to whether they returned or not. In I § 40 he says nothing about Polybius' account.

l. 5. non omnes uno modo] sc. *narrant.* Such verbs of reporting are often omitted § 120 l. 15.

bonus auctor in primis] 'a highly trustworthy authority,' § 97 l. 2 *optumum auctorem*, i.e. fide dignissimum. Polybius, the eminent historian, native of Megalopolis in Arcadia, was born about B.C. 204. He was a leading man in the Achaean league after Philopoemen and one of the 1000 Achaeans sent to Rome to answer the charge of not having assisted the Romans against Perseus. At Rome he remained seventeen years in the house of Aemilius Paulus, of whose son, Scipio Africanus minor, he became the tutor and friend, joined him in his campaign at Carthage and was present at the destruction of that city B.C. 146. His history consisted of forty books, of which five only survive in their entirety. The first book describes the First Punic War. The rest comprises a period of seventy-two years, beginning with the second Punic war B.C. 218, and ending with the fall of Corinth B.C. 146.

The passage here referred to is in a fragment of Book vi 58. Livy xxii 61 says that according to one account they all remained behind in Rome, and only the three returned, whom Hannibal had sent after them, because they did not return as soon as he expected.

l. 6. The words *novem revertisse—postquam erat* are wanting in the best MSS, they are found in Bern. c.

l. 8. **redisset**] subjunctive in clause dependent on an infinitive.

quasi aliquid esset oblitus] 'on the pretence of having forgotten something.'

l. 10. **interpretabatur**] 'put this construction upon it,' 'explained it to mean.'

l. 11. **fraus astringit, non dissolvit periurium**] 'deceit aggravates (lit. binds closer), does not loosen, undo perjury.' Cf. § 19 se astrinxit *scelere*, pro Planc. § 74 *huius officii tanti servitutem* astringebam *testimonio sempiterno*. The reading of the best MSS *distringit* yields no sense.

l. 12. **imitata prudentiam**] 'which seeks to pass for wisdom,' § 71 *ea malitia quae volt videri se esse prudentiam*, § 72 *in malitia simulatio intellegentiae*, § 96 *de prudentia quam vult imitari malitia*.

l. 13. **veterator et callidus**] § 57 l. 8.

§ **114**, l. 15. **octo milia**] Liv. xxii 58, 61.

l. 16. **quos cepisset**] consecutive subj.

periculo mortis diffugissent] 'had escaped in the hour of mortal peril.' *Periculo* is a temporal ablative as *pace*, *bello*, *tumultu*. Polybius says in the passage which Cicero had in his eye vi 58, 6 *οὔτε γὰρ ἀποδεδειλιακέναι κατὰ τὴν μάχην οὔτ' ἀνάξιον οὐδὲν πεποιηκέναι τῆς Ῥώμης, ἀλλ' ἀπολειφθέντας τὸν χάρακα τηρεῖν, πάντων ἀπολομένων τῶν ἄλλων ἐν τῇ μάχῃ τῷ καιρῷ περιληφθέντας ὑποχειρίους γενέσθαι τοῖς πολεμίοις.*

l. 17. **relicti—a Paulo et a Varrone**] after the battle of Cannae, Liv. xxii 10.

l. 18. **non censuit**] 'voted against,' cf. i § 39 *captivos reddendos in senatu non censuit.*

l. 19. **cum id parva pecunia fieri posset**] 'although it might have been done (*redimi possent* see n. to i § 4) for a small sum of money,' for three minae apiece according to Polybius, according to Livy xxii 58, 4 *pretium fore in capita equiti quingenos quadrigatos numos* (i.e. denarios), *trecenos pediti, servo centenos*, A. Gell. vi 18 *pro eis, quos alteri plures acciperent, darent argenti pondo libram et selibram.* [Three *minae* a head was above the usual ransom. The regular sum was *one mina*

a head. See Arist. Eth. V 10 μνᾶς λυτροῦσθαι an instance of convention; cp. Diodor. Sic. XIV 102. In the Peloponnese the usual sum was *two minae*, Herod. VI 79, and that sum seems to have prevailed elsewhere at times Herod. V 77. S.]

ut esset insitum] final subjunctive.

l. 21. scribit idem] Polybius VI 58, 13 ὥστε τὸν Ἀννίβαν μὴ τοσοῦτον χαρῆναι νικήσαντα τῇ μάχῃ Ῥωμαίους ὡς συντριβῆναι καταπλαγέντα τὸ στάσιμον καὶ τὸ μεγαλόψυχον τῶν ἀνδρῶν ἐν τοῖς διαβουλίοις.

l. 23. honestatis comparatione] 'by a conflict with rectitude,' cp. Brut. § 173 *erant ea in Philippo quae, qui sine* comparatione illorum *spectarit, satis magna diceret*, de off. II § 88.

§ 115, l. 24. Acilius] C. Acilius Glabrio was probably a contemporary of Cato Censorius. Aulus Gellius N. A. VII 14, 9 records that on occasion of the visit of Carneades, Diogenes and Critolaus, as a deputation from Athens to Rome (B.C. 155) to deprecate the fine of 500 talents imposed on the Athenians for the destruction of Oropus in Boeotia, Acilius acted as their interpreter to the senate. According to Chapman he was a Greek by birth, not a Roman, since he is not mentioned by Cicero in his *Brutus* among the Romans who wrote a history in Greek, but Duke differs from him. Cp. Plutarch Cat. c. 22, Macrob. Saturn. I 5. His history appears to have contained an account of the Punic wars and was translated by Claudius, Liv. XXV 39 § 12 *Claudius qui* annales Acilianos *ex Graeco in Latinum sermonem vertit*, XXXV 14, 5 *Claudius secutus Graecos* Acilianos libros.

P. 53, l. 1. qui—revertissent] § 113 l. 6. The same discrepancy in Livy XXII 61, cp. Aul. Gell. VI 18.

l. 2. a censoribus] sc. M. Atilius Regulus (son of the famous Regulus § 113 l. 28), and P. Furius Philus B.C. 214; Liv. XXII 61, 9 *ceterum proximis censoribus adeo omnibus notis ignominiisque confectos esse, ut quidam eorum mortem sibi ipsi extemplo consciverint, ceteri non foro solum omni deinde vita, sed prope luce ac publico caruerint.* Aulus Gell. N. A. VII 18 quoted above.

l. 3. ignominiis] 'marks of disgrace.' They were *in aerariis relicti* by the Censors, see I § 40. **huius loci** 'of this topic,' viz. the comparison between expediency and magnanimity, § 96.

l. 5. fuisset—si] 'would have been, if,' conditional subj.

l. 6. opus esse] i.q. expedire, § 49 *id sciri* non opus *esse.*

l. 8. quia sint] subj. in dependent clause § 113 l. 8.

CHAPTER XXXIII

§ **116, l. 9. quarta pars**] § 96. **decore**] § 101.

l. 11. virtutum choro] The same expression occurs Tusc. v § 13.

l. 12. ab Aristippo Cyrenaici] in imitation of the Gk. *οἱ ἀπὸ Πλάτωνος* and similar expressions, Zumpt Gr. § 304. So pro Mur. § 63 *nostri illi* a *Platone et Aristotele* i.e. Academici et Peripatetici, de orat. II § 58 *post* ab *Aristotele Callisthenes*, ib. § 160 *erat enim* ab *isto Aristotele*, de fin. IV § 7 *Zeno et* ab *eo qui sunt*. Aristippus, born at Cyrene and founder of the Cyrenaic school of philosophy, flourished about B.C. 370. He deviated, both in principle and in practice, very far from the teaching and example of his master Socrates. The anecdotes told of him in Diog. Laert. do not give us the notion of one who was the mere slave of his passions, but rather of one who took a pride in extracting enjoyment from all circumstances and in controlling prosperity and adversity alike (Diog. Laert. II 66 *ἦν δὲ ἱκανὸς ἁρμόσασθαι καὶ τόπῳ καὶ χρόνῳ καὶ προσώπῳ καὶ πᾶσαν περίστασιν ἁρμονίως ὑποκρίνασθαι*). Hence Horace says (Ep. I 1, 18) to observe his precepts is *mihi res, non me rebus subiungere*, and (I 17, 23) *omnis* Aristippum *decuit color et status et res*. To Xenophon and Plato he was very obnoxious. Aristotle too calls him a sophist. The Cyrenaics divided philosophy into five parts, viz. the study of (1) objects of desire and aversion, (2) feelings and affections, (3) actions, (4) causes, (5) proofs.

1. In the first alone of these divisions is the Cyrenaic view connected with the Socratic. Aristippus, taking up the Socratic position that happiness (i.e. the enjoyment of a well-ordered mind) is the aim of all men, pronounced pleasure the chief good and pain the chief evil, the *τέλος* of human life to be momentary pleasure (*μονόχρονος, μερική*): present happiness therefore was to be sought, and not *εὐδαιμονία*, which is the sum of a number of happy states. In this point the Cyrenaics were opposed to the Epicureans. All pleasures were considered equal: so that a man should never covet more than he possesses and never let himself be overcome by sensual enjoyment. Even with these concessions the Cyrenaic system destroys all moral purity, by proposing to a man as many separate *τέλη* as his life contains moments.

2. Pleasure and pain are both positive, both motions of the soul (*ἐν κινήσει*). Epicurus, on the other hand, thought pleasure to be a state of rest (*ἀταραξία*).

3. Actions are in themselves morally indifferent, and made good and bad only by law and custom. Whatever conduces to pleasure, is virtue.

4. Knowledge is sensation and πάντων μέτρον ἄνθρωπος.

See *Dictionary of Biogr.* Vol. I p. 298 ff.

Anniceril] 'the followers of Anniceris ('Αννικέρειοι).' Anniceris was probably a contemporary of Alexander the Great; he forms a link between the Cyrenaic and Epicurean schools. He was opposed to Epicurus in two points: (1) he denied that pleasure was merely the absence of pain, for if so death would be a pleasure; and (2) he attributed to every separate act a distinct object, maintaining that there was no general end of human life. He differed from Aristippus, inasmuch as he allowed that friendship, patriotism and similar virtues were good in themselves. *Dict. of Biogr.* I p. 180. Οἱ δὲ 'Αννικέρειοι καλούμενοι ἐκ τῆς Κυρηναϊκῆς διαδοχῆς τοῦ μὲν ὅλου βίου τέλος οὐδὲν ὡρισμένον ἔταξαν· ἑκάστης δὲ πράξεως ἴδιον ὑπάρχειν τέλος, τὴν ἐκ τῆς πράξεως περιγιγνομένην ἡδονήν· οὗτοι οἱ Κυρηναικοὶ τὸν ὅρον τῆς ἡδονῆς 'Επικούρου τούτεστι τοῦ ἀλγοῦντος ὑπεξαίρεσιν ἀθετοῦσιν, νεκροῦ κατάστασιν ἀποκαλοῦντες, Clem. Alex. Stromm. II 498 B. Hence Cicero speaks of Epicurus as *eiusdem fere auctor adiutorque sententiae* (Diogen. Laert. II 89). His sect became so completely out of date (*quibus obsoletis*) after Epicurus' time, that no mention is made of them by any succeeding writers, such as Ammonius, Alexander Aphrodisiensis, Iamblichus, Proclus of Simplicius, except Clemens Alexandrinus.

l. 13. **nominati**] 'so called': *philosophi minuti* is the reading suggested by Reid in his note on Acad. II 75 for *nominati* the MS reading. 'It is a term,' he says, 'likely to have been used of the Hedonists by Cicero just as he applies it to those who deny a future life in Cato m. § 85.'

l. 14. **ob eam rem**] 'only for this reason.'

l. 15. **efficiens voluptatis**] § 12 l. 9, Madvig Gr. § 425 b. ποιητικὴ τῶν ἡδονῶν is the phrase used by Epicurus ap. Diog. Laert. X 142.

Epicurus] the celebrated Greek philosopher, belonged to the Attic δῆμος of Gargettus (whence he is sometimes called the Gargettian, Cic. ad fam. XV 16), though he was born (B.C. 342) in Samos, where he spent the first eighteen years of his life. He afterwards went to Athens in B.C. 323 and thence to Colophon and Mitylene and Lampsacus, where he taught philosophy for five years. In B.C. 306 he went back to Athens and purchased the famous κῆποι 'Επικούρου in which he established his

philosophical school. Our principal source of information respecting him is the tenth book of Diogenes Laertius, besides the philosophical poem of Lucretius de rerum natura. Cicero, de finibus and de natura deorum, writes in a hostile spirit about his philosophy and unjustly brands him as a man devoted to sensual pleasures. Diogenes calls him *πολυγραφώτατος* and gives a list of the best of his works together with some of his letters and the *κύριαι δόξαι*, i.e. peculiar propositions, containing the substance of his ethical philosophy. His most important work was that *περὶ φύσεως* in 37 books, parts of which were discovered among the rolls at Herculaneum and have been published. Epicurus prided himself upon being *αὐτοδίδακτος*, but he was in reality indebted both to Democritus and to the Cyrenaics. His ethical system arose from the peculiar circumstances of his time, when, in the absence of political freedom, thinking men endeavoured to establish an internal freedom based upon ethical principles: they regarded perfect independence, self-reliance, and contentment as the *summum bonum*, following the dogma of the Cyrenaics that pleasure constitutes the highest happiness and consequently must be the end of all human exertions. But pleasure with him was conceived of not as a mere momentary and transitory sensation, but as something lasting, which consisted in pure and noble mental enjoyments, and freedom from pain and disturbing influences (*ἀταραξία* and *ἀπονία*),—peace of mind based upon *φρόνησις*, which he described as the beginning of everything good, as the origin of all virtues, and even as the *summum bonum* itself. In the physical part of his philosophy he adopted the atomic theory of Democritus, as we know from Lucretius. His ethical doctrines were much mistaken in after ages, and made to minister to mere sensuality. At Rome, owing to the paramount influence of the Stoical philosophy, they never took firm root. See *Dict. of Gr. and Rom. Biogr.* Vol. II p. 33 ff., Zeller *die Philosophie der Griechen* III erste Abth. p. 341 ff.

l. 16. **viris equisque**] 'with might and main,' cp. II § 84 *armis et castris*, Ter. Andr. 161 *manibus pedibusque*, Tusc. III 11, 25 *velis remisque*, Plaut. Asin. I 3, 5 *remigio veloque*, *quantum poteris*, *festina et fuge*.

l. 17. **ut dicitur**]=*ut aiunt*, 'as the proverb is.'

§ **117**, l. 20. **constitutionis**] sc. permansurae.

Metrodoro] Metrodorus (*Μητρόδωρος*) of Lampsacus was the most distinguished of the disciples of Epicurus, whose successor he would have been had he survived. He died B.C. 277 in his

53rd year. The philosophy of Metrodorus was more sensual than that of his master (Cic. de nat. deor. I § 113, Tusc. V § 27, de fin. II § 99, § 101). Perfect happiness according to him consisted in having a well-constituted body and in knowing that it would always remain so, de fin. II § 92 Metrodorus, *paene alter Epicurus, beatum esse describit his fere verbis; cum corpus bene constitutum sit et sit exploratum ita futurum*, Tusc. II § 17 Metrodorus *perfecte cum beatum putat, cui corpus bene constitutum sit et exploratum ita semper fore.* The original Greek words are preserved in Clemens Alex. Strom. II p. 417 C ὁ δὲ Ἐπίκουρος πᾶσαν χαρὰν τῆς ψυχῆς οἴεται ἐπὶ πρωτοπαθούσῃ τῇ σαρκὶ γενέσθαι, ὅτε Μητρόδωρος ἐν τῷ περὶ τοῦ μείζονα εἶναι τὴν παρ' ἡμᾶς αἰτίαν πρὸς εὐδαιμονίαν τῆς ἐκ τῶν πραγμάτων, Ἀγαθόν, φησί, ψυχῆς τί ἄλλο ἢ τὸ σαρκὸς εὐσταθὲς κατάστημα καὶ τὸ περὶ ταύτης πιστὸν ἔλπισμα;

l. 21. **et quidem summa**] 'and, what is more, the chief,' I § 104, II § 7.

P. 54, l. 1. nam ubi—locus dabitur] 'for what place will prudence occupy in his system?'

primum] answers to *iam* l. 6, *et* l. 11. The mention of the fourth cardinal virtue is introduced without any particle, § 118 l. 18.

l. 2. **suavitates**] i.e. voluptates.

l. 3. **quod autem munus prudentiae**] 'what is the function of prudence? is it anything else or is it etc.' See note to § 105 l. 7.

Before *ut conquirat* we must supply *is locus dabitur*, cp. de fin. II § 50 *cum honestatem eo loco habeat, ut sine ea iucunde neget posse vivi.*

l. 4. **legere intellegenter voluptates**] i.e. a salutaribus noxias, a magnis parvas, a diuturnis breves secernere. *H.*

isto] sc. munere.

l. 6. **iam**] 'then again.' Kühner ad Tusc. I § 2.

l. 9. **id spectandum est, quid dicat**] quid dicat is an epexegesis of id, § 112 l. 11.

l. 10. **consentaneum**] I § 6. Cf. Tusc. V 26, fin. II 70.

ei qui terminaverit] Consecutive subjunctive, 'to one who limited,' i.e. acknowledged nothing as good but pleasure, nothing as evil but pain.

l. 11. **et** corresponds to *primum* l. 1, *iam* l. 6.

l. 12. **ille quidem**] see n. § 71 l. 14.

l. 13. **aqua haeret**] i.e. exitum non reperit, 'he comes to a

stand-still,' 'gets stuck fast,' 'is gravelled,' metaphor from a water-course, the flow of which is obstructed. Cp. ad Quint. fr. II 8, 2 *in hac causa mihi* aqua haeret.

l. 14. **is, qui ponat**] Consecutive subjunctive, 'a man who places,' Zumpt Gr. § 556.

l. 15. **libidinum inimica**] § 96 *virtutis* inimica, Tusc. IV § 34 inimicissimi *mentis vitaeque tranquillae*.

§ **118**, l. 17. **tribus generibus**] I § 18. He refers to Wisdom, Fortitude, Temperance.

l. 18. **tergiversantur**] 'they shift and turn' so as to make their own doctrines square with truth. 'Exemplum habes,' says Heusinger, lib. I de fin. c. 9 sqq., 'ubi Torquatus Epicureus cum voluptate virtutis praecepta conciliat.' Cp. Tusc. III § 41 *quid* tergiversamur, *Epicure nec fatemur?*

l. 20. **expediunt**] 'explain so as to reconcile with their notions,' make it out as well as they can.

l. 21. **tradunt**] i.e. docent eam esse.

l. 22. **illi quidem**] Above, l. 12.

l. 23. **voluptatis magnitudinem cet.**] 'that the greatness of pleasure,' pleasure in its highest form, amounts to no more than the absence of pain, i.e. is confined to the removal of pain, it does not go any further or admit of increase, it is susceptible of variety only. **doloris detractione finiri** is used like *voluptate terminare*, § 117 l. 11. Cp. Diog. Laert. X 139 ὅρος τοῦ μεγέθους τῶν ἡδονῶν ἡ παντὸς τοῦ ἀλγοῦντος ὑπεξαίρεσις, ib. 128 ὅταν δὲ μὴ ἀλγῶμεν, οὐκέτι τῆς ἡδονῆς δεόμεθα, Seneca ep. 16, 7 *sicut quod ab Epicuro dictum est: si ad naturam vives, numquam eris pauper, si ad opiniones, numquam eris dives. Exiguum natura desiderat, opinio immensum*, Cic. de fin. II § 10 *cui omnis dolor detractus esset, variari, non augeri voluptatem*, A. Gell. II 6, 12, Cic. Tusc. III 47.

l. 25. **iustitia vacillat**] These three virtues stand up pretty well, but Justice, the fourth, totters, shews its rottenness and untenableness. Justice, Epicurus taught, is necessary for the sake of peace of mind, since the unjust man must live in continual fear of punishment from gods and men. See Cic. de fin. I § 50 where the three other virtues are considered in detail from an Epicurean point of view, ib. § 53.

vel iacet potius] 'or rather, I should say, is disregarded.' Cp. § 46, § 79, de fin. II § 117 *maximas—virtutes* iacere *omnes necesse est voluptate dominante*.

P. 55, l. 1. communitate] 'social life,' *vitae quasi communitas* I § 20. **cernuntur]** 'are visible,' I § 66 *fortis animus duabus rebus maxime cernitur.*

l. 2. **neque enim bonitas—esse potest—si haec non per se expetantur]** See Madvig Gr. § 348 e *obs.* 3, who quotes Caes. B. C. III 44 *Caesar munitiones prohibere non poterat, nisi proelio decertare* vellet, as another similar example of a conditional proposition in the conjunctive being subjoined to one containing *non possum* with the infinitive. Cp. also de fin. I § 54 *ne ipsarum quidem virtutum laus—reperire potest exitum, nisi dirigatur ad voluptatem.*

l. 3. **non plus]** § 38 l. 3, § 89 l. 17.

amicitia] Friendship is according to Epicurus one of the greatest blessings of life, de fin. I 65 *Epicurus ita dicit omnium rerum, quas ad beate vivendum sapientia comparaverit, nihil esse maius amicitia, nihil uberius, nihil iucundius;* so that the wise man ought to be ready to sacrifice his life for his friend; but in conformity with his fundamental principle that nothing but pleasure is in itself worthy, he taught that friendship was limited by pleasure, i.e. the advantages which it confers.

l. 4. **conferamus in pauca]** Quae multis verbis disputavimus, paucis complectamur. *H.* Plautus Menaech. prolog. 6 *in verba* conferam *paucissima.*

§ **119, l. 6. omnem voluptatem honestati esse contrariam]** Such at least was the doctrine of the staunchest Stoics: Sext. Empir. adv. math. XI 73 Κλεάνθης μὲν μήτε κατὰ φύσιν αὐτὴν (τὴν ἡδονὴν) εἶναι μήτε ἀξίαν ἔχειν αὐτὴν ἐν τῷ βίῳ.—Παναίτιος δέ τινα μὲν κατὰ φύσιν ὑπάρχειν, τινὰ δὲ παρὰ φύσιν. Cicero has in view chiefly gross sensual indulgence, as is the case in all his attacks upon the Epicurean system.

l. 8. **Calliphonem et Dinomachum]** Calliphon and Dinomachus tried to follow a middle path between the Stoics and Epicureans, considering the chief good to consist in the union of virtue with bodily pleasure. Clem. Alex. Strom. II § 128 explains the doctrine further:— κατὰ τοὺς παρὰ Καλλιφῶντα ἕνεκα μὲν τῆς ἡδονῆς παρεισῆλθεν ἡ ἀρετή, χρόνῳ δὲ ὕστερον τὸ περὶ αὐτὴν κάλλος κατιδοῦσα ἰσότιμον ἑαυτὴν τῇ ἀρχῇ τουτέστι τῇ ἡδονῇ παρέσχεν, i.e. pleasure and virtue are both of them ends to man, but pleasure is so from the first, while virtue only *becomes* so after experience. Cp. de fin. V § 21 *iunctae autem et duplices expositiones summi boni tres omnino fuerunt...Nam aut voluptas adiungi potest ad honestatem, ut* Calliphonti Dinomachoque *placuit, aut doloris vacuitas, ut Diodoro, aut prima naturae ut Academicis*

Peripateticisque, Tusc. v c. 30 *sunt haec de finibus sententiae: primum* simplices *quattuor*, (1) *nihil bonum nisi honestum, ut Stoici:* (2) *nihil bonum nisi voluptatem, ut Epicurus:* (3) *nihil bonum nisi vacuitatem doloris, ut Hieronymus:* (4) *nihil bonum nisi naturae primis bonis aut omnibus aut maximis frui, ut Carneades contra Stoicos disserebat. Haec igitur simplicia, illa mixta: tria genera bonorum, maxuma animi, secunda corporis, externa tertia, ut Peripatetici, nec multo veteres Academici secus:* voluptatem cum honestate Dinomachus et Callipho copulavit, *indolentiam autem honestati Peripateticus Diodorus adiunxit. Hae sunt sententiae quae stabilitatis aliquid habeant; nam Aristonis, Pyrrhonis, Erilli nonnullorumque aliorum evanuerunt*, de fin. II § 19, Ac. II § 139, Tusc. v § 85.

l. 11. **copulavissent**] § 77.

l. 12. **finis bonorum**] 'the limit of good,' i.e. the chief good, *summum bonum*. The words *et malorum* are probably corrupt, as Cicero when speaking of both good and evil uses the plural *fines*, and also *malorum* is superfluous because Cic. is here speaking of the possibility of the union of virtue with pleasure as the highest spring of action.

l. 13. **misceri cet.**] 'be a compound and mixture of contradictory qualities.'

§ **120**, l. 14. **de hoc**] sc. fine bonorum.

magna res est] 'it is no simple matter,' § 70 l. 5.

l. 15. **alio loco**] sc. dictum est, in the second book *de finibus bonorum et malorum*. The ellipse of *dicere* or some verb of similar meaning is very common in Cic. See for exx. § 60 l. 14, § 113 l. 5, Nägelsbach Stilistik § 183, 1, Dräger hist. Synt. I 174, Index s. v. ellipsis.

l. 18. **habere**] § 9 l. 7.

l. 19. **ut tribuamus aliquid voluptati**] 'to make some admission in favour of pleasure, not to exclude it altogether from consideration, a parenthetic final clause, I § 53, Kenn. Gr. p. 458.

l. 20. **condimenti nonnihil habebit**] 'will have somewhat of a relish,' 'serve as a sauce.' The pleasure of happiness of mind, which virtue calls forth, is not with the Stoics the end of virtue, but its sequel (ἐπιγέννημα).

§ **121**, l. 23. **perinde erit, ut cet.**] i.e. *magnum erit aut parvum*, 'will be according to the use you make of it,' or 'according as you

take it.' Sallust Iug. 4 perinde *habeantur*, ut *eorum qui ea sustinent virtus est.*

quamquam] 'and yet,' cf. I § 30, § 76.

l. 24. commentarios] i.q. ὑπομνήματα, 'the lectures' of Cratippus to his pupils, n. to § 8 l. 1. The son writes to Tiro, ep. ad fam. XVI 21, *multum mihi eripitur operae in exscribendis hypomnematis*, i.e. 'the notes' taken down by himself from Cratippus' lectures.

P. 56, l. 2. patria revocasset] Cp. ad fam. X 1, 1 *posteaquam de medio cursu reip. sum voce revocatus.* When Cicero found himself no longer secure in his country seat, and did not know which party to join, he set sail for Greece on the 17th July B.C. 44, but the wind drove his vessel back ashore. There he received intelligence of a change in political affairs, and heard that the stronger party did not approve of his voyage and also that M. Brutus invited him to work at Rome in the interest of his party; accordingly he returned to Rome. His death, which happened on the 7th of December B.C. 43, prevented him from fulfilling his intention of visiting his son in Greece.

l. 3. his voluminibus] ablative of the manner.

l. 7. absens loquar] Cicero is writing in his villa at Puteoli, see ad Att. XV 13, 6.

l. 8. te quidem] see § 117 l. 12.

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